UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/344
18 December 1998

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-fourth session
Geneva, 1-19 March 1999

PROVISIONAL AGENDA AND ANNOTATIONS

Note by the Secretary-General

1. The fifty-fourth session of the Committee on the Elimination of Racial Discrimination will be held at the United Nations Office at Geneva from 1 to 19 March 1999. The first meeting of the session will be convened at 10 a.m. on Monday, 1 March. The last meeting will be convened at 3 p.m. on Friday, 19 March.

2. This document contains the provisional agenda for the fifty-fourth session of the Committee, prepared by the Secretary-General in accordance with rule 6 of the rules of procedure, together with annotations relating thereto.

3. The attention of States parties is drawn, in particular, to the tentative timetable for consideration of reports and further information submitted by States parties, for consideration of States parties whose reports are seriously overdue pursuant to the review procedure, and for consideration of States parties pursuant to early warning measures and urgent action procedures.

4. In accordance with rule 64 of the rules of procedure, the representatives of the States parties are invited to be present at the meetings of the Committee when their reports are examined.

PROVISIONAL AGENDA

1. Adoption of the agenda.

2. Organizational and other matters.

3. Prevention of racial discrimination, including early warning measures and urgent action procedures.

4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

5. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

6. Action by the General Assembly at its fifty-third session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights.

7. Consideration of communications under article 14 of the Convention.

8. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

9. Third Decade to Combat Racism and Racial Discrimination; World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

ANNOTATIONS TO THE PROVISIONAL AGENDA

1. Adoption of the agenda

Under rule 8 of the rules of procedure, the first item on the provisional agenda of any session shall be the adoption of the agenda. In accordance with rule 9, the Committee may revise the agenda during a session and may, as appropriate, add, defer or delete items.

2. Organizational and other matters

Under this item, the Committee will consider its programme of work for the fifty-fourth session. It will also undertake a general debate on issues of interest to the Committee.

3. Prevention of racial discrimination, including early warning measures and urgent action procedures

The Committee decided at its forty-fifth session to establish this as one of its regular and principal agenda items. Within the framework of its efforts to prevent racial discrimination, the Committee may decide to take early warning measures aimed at preventing existing problems from escalating into conflicts; or it may decide to initiate urgent action procedures aimed at responding to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. The Committee may also take action or further action regarding States parties already considered under this item.

Pursuant to decisions taken at its fifty-third session, the Committee has scheduled, at its fifty-fourth session, consideration of the situation in the following States parties: Australia, Czech Republic, Democratic Republic of the Congo, Rwanda, the Sudan and Yugoslavia. The Committee may, at its discretion, schedule the consideration of other States parties at short notice.

In pursuance of established practice, the Secretary-General has informed the States parties concerned of the tentative dates on which they are scheduled for consideration by the Committee. The scheduling of the Committee's consideration of States parties under this item is set forth in the timetable below.

4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

At its fifty-fourth session, the Committee will consider reports received from the following States parties: Austria, Costa Rica, Finland, Italy, Lesotho, Mongolia, Peru, Portugal, Republic of Korea, Syrian Arab Republic and Kuwait.

Pursuant to a decision taken at its fifty-third session, the Committee has scheduled, at its fifty-fourth session, a review of the implementation of the Convention in one State party, Bangladesh, that has previously submitted reports but whose periodic reports are seriously overdue.

In addition, the Committee has scheduled a review of the implementation of the Convention in a number of States parties whose initial reports are seriously overdue. Those States parties are: Bahrain, Congo and Slovenia.

In pursuance of established practice and in conformity with rule 64 of the rules of procedure, the Secretary-General has informed the States parties concerned of the tentative dates on which their respective reports are scheduled for consideration by the Committee. The scheduling of the Committee's consideration of reports submitted and review of the implementation of the Convention in the States parties whose reports are seriously overdue is set forth in the timetable below.

5. Submission of reports by States parties under article 9, paragraph 1, of the Convention

At its fifty-fourth session, the Committee will have before it a note by the Secretary-General concerning the status of submission of reports by States parties in accordance with article 9 of the Convention (CERD/C/345). Part A of that document indicates reports received from States parties and pending consideration by the Committee. Part B of the document contains information relating to overdue reports.

6. Action by the General Assembly at its fifty-third session on the annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention

Following a request made by the Committee at its seventh session in 1973, this item is included yearly on the Committee's provisional agenda.

(a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention

Pursuant to article 9, paragraph 2, of the Convention, the annual report of the Committee, covering its activities during the fifty-second and fifty-third sessions, was submitted to the General Assembly at its fifty-third session. The Committee will have before it the report and relevant summary records of the Third Committee, and relevant General Assembly resolutions.

(b) Effective implementation of international instruments on human rights

During the fifty-third session of the General Assembly, this item was considered by the Third Committee. The Committee will have before it the following documents:

(i) Note of the Secretary-General transmitting to the General Assembly the report of the tenth meeting of persons chairing the human rights treaty bodies (A/53/432);

(ii) Relevant summary records;

(iii) Relevant General Assembly resolutions.

7. Consideration of communications under article 14 of the Convention

In accordance with the provisions of chapter XVIII of its rules of procedure, the Committee will consider under this item communications which are or appear to be submitted to it under article 14 of the Convention.

In accordance with rule 88 of the rules of procedure, the meetings of the Committee during which communications under article 14 of the Convention are examined shall be closed.

8. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention

Under this item, the Committee will have before it a note by the Secretary-General (CERD/C/346) concerning article 15 of the Convention and listing, as appropriate, copies of petitions, reports and working papers relating to the Trusteeship Council and the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

9. Third Decade to Combat Racism and Racial Discrimination; World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

At its 695th meeting (thirtieth session) in August 1984, the Committee decided to keep this item on its agenda and requested the Secretary-General to keep it informed of the relevant activities which would be undertaken in accordance with the Programme of Action for the Second Decade. This practice was maintained with the subsequent adoption of the Programme of Action for the Third Decade.

The Committee discussed the World Conference at its 1302nd and 1303rd meetings (fifty-third session) in August 1998, and agreed at its 1303rd meeting to further discuss its potential contribution to the preparations for the World Conference at its next session.

Tentative timetable for consideration of reports, comments and further information submitted by States parties, for consideration of States parties whose reports are seriously overdue pursuant to the review procedure, and for consideration of States parties pursuant to early warning measures and urgent action procedures

The following timetable has been drawn up by the Secretary-General, in consultation with the Chairman, taking into account the relevant decisions taken by the Committee at its fifty-third session.

Monday, 1 March 1999 (1304th and 1305th meetings)

General debate on issues of interest to the Committee	
Austria 1/ (Country Rapporteur: Mr. Nobel)	Eleventh, twelfth and thirteenth periodic reports, due in 1993, 1995 and 1997, submitted in one document (CERD/C/319/Add.5)

Tuesday, 2 March 1999 (1306th and 1307th meetings)

Austria	(continued)
Bahrain 2/ (Country Rapporteur: Mr. van Boven)	Initial, second, third and fourth periodic reports, due in 1991, 1993, 1995 and 1997
Republic of Korea 1/ (Country Rapporteur: Mr. van Boven)	Ninth and tenth periodic reports, due in 1996 and 1998, submitted in one document (CERD/C/333/Add.1)

Wednesday, 3 March 1999 (1308th and 1309th meetings)

Republic of Korea	(continued)
Bangladesh 2/ (Country Rapporteur: Mr. Banton)	Fifth and sixth periodic reports, due in 1988 and 1990, submitted in one document, considered at the 942nd and 943rd meetings in 1992
Finland 1/ (Country Rapporteur: Mr. Sherifis)	Thirteenth and fourteenth periodic reports, due in 1995 and 1997, submitted in one document (CERD/C/320/Add.2)

Thursday, 4 March 1999 (1310th and 1311th meetings)

Finland	(continued)

Congo 2/ (Country Rapporteur: Mrs. Sadiq Ali)	Initial, second, third, fourth and fifth periodic reports, due in 1989, 1991, 1993, 1995 and 1997
Portugal 1/ (Country Rapporteur: Mr. Garvalov)	Fifth, sixth, seventh and eighth periodic reports, due in 1991, 1993, 1995 and 1997, submitted in one document (CERD/C/314/Add.1)

Friday, 5 March 1999 (1312th and 1313th meetings)

Portugal	(continued)
Slovenia 2/ (Country Rapporteur: Mr. Rechetov)	Initial, second and third periodic reports, due in 1993, 1995 and 1997
Democratic Republic of the Congo 3/ (Country Rapporteur: Mr. Valencia Rodriguez)	Tenth periodic report (CERD/C/278/Add.1), considered at the 1171st to 1173rd meetings in 1996, and further considered at the 1240th meeting in 1997, the 1271st meeting in 1998, and the 1297th meeting in 1998
Rwanda 3/ (Country Rapporteur: Mr. van Boven)	Seventh periodic report (CERD/C/169/Add.1) considered at the 839th meeting in 1989 and further considered at the 1027th and 1045th meetings in 1994, the 1153rd meeting in 1996, the 1212th meeting in 1997, the 1274th meeting in 1998, and the 1299th meeting in 1998
Sudan 3/ (Country Rapporteur: Ms. McDougall)	Fifth, sixth, seventh and eighth periodic reports (CERD/C/222/Add.1), considered at the 968th, 970th and 971st meetings in 1993, and additional information (CERD/C/222/Add.2), considered at the 1052nd and 1053rd meetings in 1994

Monday, 8 March 1999 (1314th and 1315th meetings)

Yugoslavia 3/ (Country Rapporteur: Mr. Nobel)	Thirteenth and fourteenth periodic reports (CERD/C/299/Add.17), considered at the 1260th, 1261st and 1262nd meeting in 1998 and further considered at the 1296th meeting in 1998
Italy 1/ (Country Rapporteur: Mr. Diaconu)	Tenth and eleventh periodic reports, due in 1995 and 1997, submitted in one document (CERD/C/317/Add.1)

Tuesday, 9 March 1999 (1316th and 1317th meetings)

Italy	(continued)
Peru 1/ (Country Rapporteur: Mr. de Gouttes)	Twelfth and thirteenth periodic reports, due in 1994 and 1996, submitted in one document (CERD/C/298/Add.5)

Wednesday, 10 March 1999 (1318th and 1319th meetings)

Peru	(continued)
Syrian Arab Republic 1/ (Country Rapporteur: Mr. Agha Shahi)	Twelfth, thirteenth, fourteenth and fifteenth periodic reports, due in 1992, 1994, 1996 and 1998, submitted in one document (CERD/C/338/Add.1/Rev.1)

Thursday, 11 March 1999 (1320th and 1321st meetings)

Syrian Arab Republic	(continued)
Czech Republic 1/ (Country Rapporteur: Mr. Diaconu)	Additional information in response to Decision 2 (53), adopted on 11 August 1998 (CERD/C/348)
Costa Rica 1/ (Country Rapporteur: Mr. Yutzis)	Twelfth, thirteenth, fourteenth and fifteenth periodic reports due in 1992, 1994, 1996 and 1998, submitted in one document (CERD/C/338/Add.4)

Friday, 12 March 1999 (1322nd and 1323rd meetings)

Costa Rica	(continued)
Australia 1/ (Country Rapporteur: Ms. McDougall)	Additional information in response to Decision 1 (53), adopted on 11 August 1998 (CERD/C/347)
Kuwait 1/ (Country rapporteur: Mr. Yutzis)	Thirteenth and fourteenth periodic reports due in 1994 and 1996, submitted in one document (CERD/C/299/Add.16 and CERD/C/299/Add.16/Corr.1)

Monday, 15 March 1999 (1324th and 1325th meetings)

Kuwait	(continued)
Mongolia 1/ (Country Rapporteur:	Eleventh, twelfth, thirteenth, fourteenth and fifteenth periodic reports, due in

Mrs. Zou)	1990, 1992, 1994, 1996 and 1998, submitted in one document (CERD/C/338/Add.3)

Tuesday, 16 March 1999 (1326th and 1327th meetings)

Mongolia	(continued)
Lesotho 1/ (Country Rapporteur: Mrs. Sadiq Ali)	Seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports due in 1984, 1986, 1988, 1990, 1992, 1994, 1996 and 1998, submitted in one document (CERD/C/337/Add.1)

Wednesday, 17 March 1999 (1328th and 1329th meetings)

Lesotho	(continued)

Notes

1/ Periodic report.

2/ Review procedure (for States parties whose reports are seriously overdue).

3/ Early warning measures and urgent action procedures.

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Distr.
GENERAL

CERD/C/345
2 February 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-fourth session
Geneva, 1-19 March 1999
Item 5 of the provisional agenda

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION

Note by the Secretary-General

The present note contains information on the overall situation with regard to the submission of reports by States parties in accordance with article 9 of the Convention. Section A lists, in alphabetical order of State party, the reports received by the Secretary-General and reflects the status of reports submitted as at 21 January 1999. Section B lists the reports due in the order of the years in which they fell due from States parties up to the closing date of the present session of the Committee (19 March 1999).

Status of submission of reports by States parties under article 9 of the Convention

A. Reports received and pending consideration by the Committee

Australia	Additional information in response to Decision 1 (53), adopted on 11 August 1998 (CERD/C/347)
Austria	Eleventh, twelfth and thirteenth reports, due in 1993, 1995 and 1997 respectively, submitted in one document (CERD/C/319/Add.5)
Azerbaijan	Initial and second periodic report, due in 1997 and 1999 respectively, submitted in one document (CERD/C/350/Add.1)

Chile	Eleventh, twelfth, thirteenth and fourteenth reports, due in 1992, 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/337/Add.2)
Colombia	Eighth and ninth reports, due in 1996 and 1998 respectively, submitted in one document (CERD/C/332/Add.1)
Costa Rica	Twelfth, thirteenth, fourteenth and fifteenth reports, due in 1992, 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/338/Add.4)
Czech Republic	Additional information in response to Decision 2 (53), adopted on 11 August 1998 (CERD/C/348)
Denmark	Fourteenth periodic report due in 1999 (CERD/C/362/Add.1)
Dominican Republic	Fourth, fifth, sixth, seventh and eighth reports, due in 1990, 1992, 1996 and 1998 respectively, submitted in one document (CERD/C/331/Add.1)
Finland	Thirteenth and fourteenth reports, due in 1995 and 1997 respectively, submitted in one document (CERD/C/320/Add.2)
Ghana	Twelfth, thirteenth, fourteenth and fifteenth reports, due in 1992, 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/338/Add.5)
Guinea	Second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh reports, due in 1980, 1982, 1984, 1986, 1988, 1990, 1992, 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/334/Add.1)
Iraq	Fourteenth report due in 1997 (CERD/C/320/Add.3)
Iran (Islamic Republic of)	Thirteenth, fourteenth and fifteenth reports, due in 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/338/Add.8)
Italy	Tenth and eleventh reports, due in 1995 and 1997 respectively, submitted in one document (CERD/C/317/Add.1)
Kuwait	Thirteenth and fourteenth reports, due in 1994 and 1996 respectively, submitted in one document (CERD/C/299/Add.16 & Corr.1)
Kyrgyzstan	Initial report due in 1998 (CERD/C/346/Add.1)

Latvia	Initial, second and third reports, due in 1993, 1995 and 1997 respectively (CERD/C/309/Add.1)
Lesotho	Seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth reports, due in 1984, 1986, 1988, 1990, 1992, 1994, 1996 and 1998 respectively (CERD/C/337/Add.1)
Mauritania	Initial, second, third, fourth and fifth reports, due in 1990, 1992, 1994, 1996 and 1998 respectively (CERD/C/330/Add.1)
Mongolia	Eleventh, twelfth, thirteenth, fourteenth and fifteenth reports, due in 1990, 1992, 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/338/Add.3)
Peru	Twelfth and thirteenth reports, due in 1994 and 1996 respectively, submitted in one document (CERD/C/298/Add.5)
Portugal	Fifth, sixth, seventh and eighth reports, due in 1991, 1993, 1995 and 1997 respectively, submitted in one document (CERD/C/314/Add.1)
Republic of Korea	Ninth and tenth reports, due in 1996 and 1998 respectively, submitted in one document (CERD/C/333/Add.1)
Romania	Twelfth, thirteenth, fourteenth and fifteenth reports, due in 1993, 1995, 1997 and 1999 respectively, submitted in one document (CERD/C/363/Add.1)
Spain	Fourteenth and fifteenth periodic reports, due in 1996 and 1998 respectively, submitted in one document (CERD/C/338/Add.6)
Syrian Arab Republic	Twelfth, thirteenth, fourteenth and fifteenth reports, due in 1992, 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/338/Add.1/Rev.1)
Uruguay	Twelfth, thirteenth, fourteenth and fifteenth reports, due in 1992, 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/338/Add.7)
Yugoslavia	Additional information in response to Decision 3 (53), adopted on 17 August 1998 (CERD/C/364)
Zimbabwe	Second, third and fourth reports, due in 1994, 1996 and 1998 respectively, submitted in one document (CERD/C/329/Add.1)

B. Reports due

1. States parties from which two or more reports are due

State party	Type of report	Date on which the report was due	Number of reminders sent
Sierra Leone	Fourth report	4 January 1976	27
	Fifth report	4 January 1978	23
	Sixth report	4 January 1980	21
	Seventh report	4 January 1982	17
	Eighth report	4 January 1984	13
	Ninth report	4 January 1986	9
	Tenth report	4 January 1988	6
	Eleventh report	4 January 1990	6
	Twelfth report	4 January 1992	5
	Thirteenth report	4 January 1994	4
	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1
	Supplementary	31 March 1975	1
Liberia	Initial report	5 December 1977	24
	Second report	5 December 1979	20
	Third report	5 December 1981	16
	Fourth report	5 December 1983	13
	Fifth report	5 December 1985	9
	Sixth report	5 December 1987	6
	Seventh report	5 December 1989	6
	Eighth report	5 December 1991	5
	Ninth report	5 December 1993	4
	Tenth report	5 December 1995	3
	Eleventh report	5 December 1997	1
Guyana	Initial report	17 March 1978	24
	Second report	17 March 1980	20
	Third report	17 March 1982	16
	Fourth report	17 March 1984	13
	Fifth report	17 March 1986	9
	Sixth report	17 March 1988	6
	Seventh report	17 March 1990	6
	Eighth report	17 March 1992	5
	Ninth report	17 March 1994	4
	Tenth report	17 March 1996	3
	Eleventh report	17 March 1998	1
Gambia	Second report	28 January 1982	17
	Third report	28 January 1984	13
	Fourth report	28 January 1986	9
	Fifth report	28 January 1988	6
	Sixth report	28 January 1990	6
	Seventh report	28 January 1992	5
	Eighth report	28 January 1994	4
	Ninth report	28 January 1996	3
	Tenth report	28 January 1998	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Côte d'Ivoire	Fifth report	3 February 1982	17
	Sixth report	3 February 1984	13
	Seventh report	3 February 1986	9
	Eighth report	3 February 1988	6
	Ninth report	3 February 1990	6
	Tenth report	3 February 1992	5
	Eleventh report	3 February 1994	4
	Twelfth report	3 February 1996	3
	Thirteenth report	3 February 1998	1
Togo	Sixth report	1 October 1983	13
	Seventh report	1 October 1985	9
	Eighth report	1 October 1987	6
	Ninth report	1 October 1989	6
	Tenth report	1 October 1991	5
	Eleventh report	1 October 1993	4
	Twelfth report	1 October 1995	3
	Thirteenth report	1 October 1997	2
Uganda	Second report	21 December 1983	13
	Third report	21 December 1985	9
	Fourth report	21 December 1987	7
	Fifth report	21 December 1989	6
	Sixth report	21 December 1991	5
	Seventh report	21 December 1993	4
	Eighth report	21 December 1995	3
	Ninth report	21 December 1997	1
Fiji	Sixth report	11 January 1984	12
	Seventh report	11 January 1986	8
	Eighth report	11 January 1988	6
	Ninth report	11 January 1990	6
	Tenth report	11 January 1992	5
	Eleventh report	11 January 1994	4
	Twelfth report	11 January 1996	3
	Thirteenth report	11 January 1998	1
Bahamas	Fifth report	4 September 1984	12
	Sixth report	4 September 1986	8
	Seventh report	4 September 1988	6
	Eighth report	4 September 1990	6
	Ninth report	4 September 1992	5
	Tenth report	4 September 1994	4
	Eleventh report	4 September 1996	3
	Twelfth report	4 September 1998	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Somalia	Fifth report	25 September 1984	12
	Sixth report	25 September 1986	9
	Seventh report	25 September 1988	7
	Eighth report	25 September 1990	6
	Ninth report	25 September 1992	5
	Tenth report	25 September 1994	4
	Eleventh report	25 September 1996	3
	Twelfth report	25 September 1998	1
Cape Verde	Third report	2 November 1984	12
	Fourth report	2 November 1986	9
	Fifth report	2 November 1988	7
	Sixth report	2 November 1990	6
	Seventh report	2 November 1992	4
	Eighth report	2 November 1994	4
	Ninth report	2 November 1996	3
	Tenth report	2 November 1998	1
Saint Vincent and the Grenadines	Second report	9 December 1984	11
	Third report	9 December 1986	8
	Fourth report	9 December 1988	6
	Fifth report	9 December 1990	5
	Sixth report	9 December 1992	3
	Seventh report	9 December 1994	3
	Eighth report	9 December 1996	2
	Ninth report	9 December 1998	-
Papua New Guinea	Second report	26 February 1985	11
	Third report	26 February 1987	8
	Fourth report	26 February 1989	6
	Fifth report	26 February 1991	5
	Sixth report	26 February 1993	3
	Seventh report	26 February 1995	3
	Eighth report	26 February 1997	2
	Ninth report	26 February 1999	-
Botswana	Sixth report	22 March 1985	11
	Seventh report	22 March 1987	8
	Eighth report	22 March 1989	6
	Ninth report	22 March 1991	5
	Tenth report	22 March 1993	3
	Eleventh report	22 March 1995	3
	Twelfth report	22 March 1997	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Lao People's Democratic Republic	Sixth report	24 March 1985	10
	Seventh report	24 March 1987	7
	Eighth report	24 March 1989	6
	Ninth report	24 March 1991	4
	Tenth report	24 March 1993	3
	Eleventh report	24 March 1995	3
	Twelfth report	24 March 1997	2
Suriname	Initial report	14 April 1985	11
	Second report	14 April 1987	8
	Third report	14 April 1989	6
	Fourth report	14 April 1991	5
	Fifth report	14 April 1993	3
	Sixth report	14 April 1995	3
	Seventh report	14 April 1997	2
Solomon Islands	Second report	16 April 1985	11
	Third report	16 April 1987	8
	Fourth report	16 April 1989	6
	Fifth report	16 April 1991	5
	Sixth report	16 April 1993	3
	Seventh report	16 April 1995	3
	Eighth report	16 April 1997	2
Central African Republic	Eighth report	15 April 1986	10
	Ninth report	15 April 1988	8
	Tenth report	15 April 1990	8
	Eleventh report	15 April 1992	5
	Twelfth report	15 April 1994	4
	Thirteenth report	15 April 1996	3
	Fourteenth report	15 April 1998	1
Mozambique	Second report	18 May 1986	10
	Third report	18 May 1988	8
	Fourth report	18 May 1990	8
	Fifth report	18 May 1992	5
	Sixth report	18 May 1994	4
	Seventh report	18 May 1996	3
	Eighth report	18 May 1998	1
Jamaica	Eighth report	4 July 1986	10
	Ninth report	4 July 1988	8
	Tenth report	4 July 1990	8
	Eleventh report	4 July 1992	5
	Twelfth report	4 July 1994	4
	Thirteenth report	4 July 1996	3
	Fourteenth report	4 July 1998	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Afghanistan	Second report	5 August 1986	10
	Third report	5 August 1988	8
	Fourth report	5 August 1990	8
	Fifth report	5 August 1992	5
	Sixth report	5 August 1994	4
	Seventh report	5 August 1996	3
	Eighth report	5 August 1998	1
Mali	Seventh report	15 August 1987	7
	Eighth report	15 August 1989	7
	Ninth report	15 August 1991	5
	Tenth report	15 August 1993	3
	Eleventh report	15 August 1995	3
	Twelfth report	15 August 1997	2
United Republic of Tanzania	Eighth report	26 November 1987	7
	Ninth report	26 November 1989	7
	Tenth report	26 November 1991	4
	Eleventh report	26 November 1993	3
	Twelfth report	26 November 1995	3
	Thirteenth report	26 November 1997	2
Barbados	Eighth report	8 December 1987	7
	Ninth report	8 December 1989	7
	Tenth report	8 December 1991	4
	Eleventh report	8 December 1993	3
	Twelfth report	8 December 1995	3
	Thirteenth report	8 December 1997	1
Madagascar	Tenth report	9 March 1988	7
	Eleventh report	9 March 1990	7
	Twelfth report	9 March 1992	4
	Thirteenth report	9 March 1994	3
	Fourteenth report	9 March 1996	3
	Fifteenth report	9 March 1998	1
Seychelles	Sixth report	6 April 1989	4
	Seventh report	6 April 1991	4
	Eighth report	6 April 1993	3
	Ninth report	6 April 1995	3
	Tenth report	6 April 1997	2
Ethiopia	Seventh report	23 July 1989	4
	Eighth report	23 July 1991	4
	Ninth report	23 July 1993	3
	Tenth report	23 July 1995	3
	Eleventh report	23 July 1997	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Congo	Initial report	10 August 1989	4
	Second report	10 August 1991	4
	Third report	10 August 1993	3
	Fourth report	10 August 1995	3
	Fifth report	10 August 1997	2
Antigua and Barbuda	Initial report	24 November 1989	4
	Second report	24 November 1991	4
	Third report	24 November 1993	3
	Fourth report	24 November 1995	3
	Fifth report	24 November 1997	2
Rwanda	Eighth report	16 May 1990	5
	Ninth report	16 May 1992	5
	Tenth report	16 May 1994	4
	Eleventh report	16 May 1996	3
	Twelfth report	16 May 1998	1
Saint Lucia	Initial report	16 March 1991	4
	Second report	16 March 1993	4
	Third report	16 March 1995	3
	Fourth report	16 March 1997	2
	Fifth report	16 March 1999	-
Bahrain	Initial report	26 April 1991	4
	Second report	26 April 1993	4
	Third report	26 April 1995	3
	Fourth report	26 April 1997	2
Haiti	Tenth report	18 January 1992	4
	Eleventh report	18 January 1994	4
	Twelfth report	18 January 1996	3
	Thirteenth report	18 January 1998	1
Bangladesh	Seventh report	11 July 1992	4
	Eighth report	11 July 1994	4
	Ninth report	11 July 1996	3
	Tenth report	11 July 1998	1
Estonia	Initial report	20 November 1992	3
	Second report	20 November 1994	3
	Third report	20 November 1996	2
	Fourth report	20 November 1998	1
Senegal	Eleventh report	19 May 1993	3
	Twelfth report	19 May 1995	3
	Thirteenth report	19 May 1997	2
Maldives	Fifth report	24 May 1993	3
	Sixth report	24 May 1995	3
	Seventh report	24 May 1997	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Slovenia	Initial report	6 July 1993	3
	Second report	6 July 1995	3
	Third report	6 July 1997	2
Viet Nam	Sixth report	9 July 1993	3
	Seventh report	9 July 1995	3
	Eighth report	9 July 1997	2
Greece	Twelfth report	18 July 1993	3
	Thirteenth report	18 July 1995	3
	Fourteenth report	18 July 1997	2
Qatar	Ninth report	21 August 1993	3
	Tenth report	21 August 1995	3
	Eleventh report	21 August 1997	2
Yemen	Eleventh report	17 November 1993	3
	Twelfth report	17 November 1995	3
	Thirteenth report	17 November 1997	2
Ecuador	Thirteenth report	4 January 1994	3
	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1
Egypt	Thirteenth report	4 January 1994	3
	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1
Tunisia	Thirteenth report	4 January 1994	3
	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1
Republic of Moldova	Initial report	25 February 1994	3
	Second report	25 February 1996	3
	Third report	25 February 1998	1
Sudan	Ninth report	20 April 1994	3
	Tenth report	20 April 1996	3
	Eleventh report	20 April 1998	1
Slovakia	Initial report	28 May 1994	3
	Second report	28 May 1996	3
	Third report	28 May 1998	1
Holy See	Thirteenth report	31 May 1994	3
	Fourteenth report	31 May 1996	3
	Fifteenth report	31 May 1998	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Bosnia and Herzegovina 1/	Initial report	16 July 1994	3
	Second report	16 July 1996	3
	Third report	16 July 1998	1
France	Twelfth report	27 August 1994	3
	Thirteenth report	27 August 1996	3
	Fourteenth report	27 August 1998	1
Australia	Tenth report	30 October 1994	3
	Eleventh report	30 October 1996	3
	Twelfth report	30 October 1998	1
Trinidad and Tobago	Eleventh report	3 November 1994	3
	Twelfth report	3 November 1996	3
	Thirteenth report	3 November 1998	1
Zambia	Twelfth report	5 March 1995	3
	Thirteenth report	5 March 1997	2
	Fourteenth report	5 March 1999	-
Sri Lanka	Seventh report	20 March 1995	3
	Eighth report	20 March 1997	2
Albania	Initial report	10 June 1995	3
	Second report	10 June 1997	2
Bolivia	Thirteenth report	22 October 1995	3
	Fourteenth report	22 October 1997	2
Turkmenistan	Initial report	29 October 1995	3
	Second report	29 October 1997	2
Canada	Thirteenth report	13 November 1995	3
	Fourteenth report	13 November 1997	2
United States of America	Initial report	20 November 1995	3
	Second report	20 November 1997	2
New Zealand	Twelfth report	22 December 1995	3
	Thirteenth report	22 December 1997	1
Brazil	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1

1/ For a report submitted in compliance with a special decision of the Committee taken at its forty-second session (1993), see CERD/C/247.

State party	Type of report	Date on which the report was due	Number of reminders sent
Hungary	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1
Nigeria	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1
Venezuela	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1
Tajikistan	Initial report	10 February 1996	3
	Second report	10 February 1998	1
Malta	Thirteenth report	26 June 1996	3
	Fourteenth report	26 June 1998	1
Belgium	Eleventh report	6 September 1996	3
	Twelfth report	6 September 1998	1
Chad	Tenth report	16 September 1996	3
	Eleventh report	16 September 1998	1
Monaco	Initial report	27 October 1996	3
	Second report	27 October 1998	1
Uzbekistan	Initial report	28 October 1996	3
	Second report	28 October 1998	1
El Salvador	Ninth report	30 December 1996	2
	Tenth report	30 December 1998	-
Sweden	Thirteenth report	5 January 1997	2
	Fourteenth report	5 January 1999	-
Netherlands	Thirteenth report	9 January 1997	1
	Fourteenth report	9 January 1999	-
Japan	Initial report	14 January 1997	2
	Second report	14 January 1999	-
China	Eighth report	28 January 1997	2
	Ninth report	28 January 1999	-
Algeria	Thirteenth report	15 March 1997	2
	Fourteenth report	15 March 1999	-
Nicaragua	Tenth report	17 March 1997	2
	Eleventh report	17 March 1999	-

2. Other States parties whose reports are due before the closing date of the fifty-fourth session (19 March 1999) but have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Democratic Republic of the Congo	Eleventh report	21 May 1997	2
Luxembourg	Tenth report	31 May 1997	2
Mauritius	Thirteenth report	29 June 1997	2
Malawi	Initial report	11 July 1997	2
United Arab Emirates	Twelfth report	20 July 1997	2
Burkina Faso	Twelfth report	17 August 1997	2
Namibia	Eighth report	11 December 1997	1
Switzerland	Second report	29 December 1997	1
Argentina	Fifteenth report	4 January 1998	1
Bulgaria	Fifteenth report	4 January 1998	1
Cyprus	Fifteenth report	4 January 1998	1
Iceland	Fifteenth report	4 January 1998	1
India	Fifteenth report	4 January 1998	1
Kuwait	Fifteenth report	4 January 1998	1
Libyan Arab Jamahiriya	Fifteenth report	4 January 1998	1
Niger	Fifteenth report	4 January 1998	1
Panama	Fifteenth report	4 January 1998	1
Pakistan	Fifteenth report	4 January 1998	1
Philippines	Fifteenth report	4 January 1998	1
Poland	Fifteenth report	4 January 1998	1
Yugoslavia	Fifteenth report	4 January 1998	1
Morocco	Fourteenth report	17 January 1998	1
Israel	Tenth report	2 February 1998	1

State party	Type of report	Date on which the report was due	Number of reminders sen
Guatemala	Eighth report	17 February 1998	1
Nepal	Fourteenth report	1 March 1998	1
Mexico	Twelfth report	22 March 1998	1
Russian Federation	Fifteenth report	6 March 1998	1
Ukraine	Fifteenth report	6 April 1998	1
United Kingdom of Great Britain and Northern Ireland	Fifteenth report	6 April 1998	1
Swaziland	Fifteenth report	7 May 1998	1
Belarus	Fifteenth report	8 May 1998	1
Germany	Fifteenth report	15 June 1998	1
Armenia	Third report	23 July 1998	1
Cameroon	Fourteenth report	24 July 1998	1
The former Yugoslav Republic of Macedonia	Fourth report	17 September 1998	1
Croatia	Fourth report	8 October 1998	1
Saudi Arabia	Initial report	22 October 1998	1
Peru	Fourteenth report	29 October 1998	1
Burundi	Eleventh report	26 November 1998	1
Lebanon	Fourteenth report	12 December 1998	-
Cambodia	Eighth report	28 December 1998	-
Italy	Twelfth report	4 February 1999	-
Iraq	Fifteenth report	13 February 1999	-
Cuba	Fourteenth report	16 March 1999	-
Tonga	Fourteenth report	17 March 1999	-

UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/346
21 January 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-fourth session
Item 8 of the provisional agenda

CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

Note by the Secretary-General

1. At its fifty-third session, the Committee on the Elimination of Racial Discrimination considered copies of reports and other documentation relating to Trust and Non-Self-Governing Territories submitted to it in 1998 in accordance with decisions of the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in conformity with article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee's expressions of opinion and recommendations 1/ were submitted to the General Assembly at its fifty-third session in accordance with article 15, paragraph 3, of the Convention, as well as to the United Nations bodies concerned.

2. At its 1998 session, the Special Committee continued to follow the work of the Committee on the Elimination of Racial Discrimination and to monitor related developments in the Territories, having regard to the relevant provisions of article 15 of the Convention. 2/

3. Any further action which the Special Committee may take in connection with the transmission of information to the Committee under article 15 of the Convention will be brought to the attention of the Committee at a later date, as appropriate.

4. In accordance with earlier decisions of the Special Committee and the Trusteeship Council, however, the Secretary-General will make available to the Committee, at its fifty-fourth session, copies of the working papers on the various Territories, prepared by the Secretariat for the Special Committee and the Trusteeship Council in 1998. 3/

5. Accordingly, the Committee will have before it at its fifty-fourth session the following documents:

Cayman Islands	A/AC.109/2102
Pitcairn	A/AC.109/2103
American Samoa	A/AC.109/2104
Falkland Islands (Malvinas)	A/AC.109/2105
Anguilla	A/AC.109/2106
Turks and Caicos Islands	A/AC.109/2107
Montserrat	A/AC.109/2108
Bermuda	A/AC.109/2109
British Virgin Islands	A/AC.109/2110
East Timor	A/AC.109/2111
Gibraltar	A/AC.109/2112
Guam	A/AC.109/2113
New Caledonia	A/AC.109/2114
St. Helena	A/AC.109/2115
Tokelau	A/AC.109/2116
United States Virgin Islands	A/AC.109/2117
Western Sahara	A/AC.109/2118

6. Working papers relating to other Territories which may be prepared by the Secretariat will be submitted to the Committee as they become available, as will copies of petitions, documents and decisions which the Special Committee may decide to transmit to the Committee under article 15 of the Convention.

Notes

1/ Official Records of the General Assembly, Fifty-third Session, Supplement No. 18 (A/53/18), para. 493.

2/ See A/53/23 (Part I), paras. 67 and 75-76.

3/ For the list of the working papers issued in 1997 relating to the Territories which were considered by the Committee at its fifty-third session, see Official Records of the General Assembly, Fifty-third Session, Supplement No. 18 (A/53/18), annex IV.

UNITED
NATIONS

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International Convention on
the Elimination
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Racial Discrimination

Distr.
GENERAL

CERD/C/347
22 January 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

Documents submitted in compliance with a request of the Committee under article 9, paragraph 1, of the Convention*

AUSTRALIA

[13 January 1999]

* The present document contains additional information pursuant to a request of the Committee in decision 1 (53), adopted on 11 August 1998 (A/53/18, para. 22).

GE.99-40223 (E)

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Preamble

1. On 11 August 1998 the United Nations Committee on the Elimination of Racial Discrimination wrote to the Australian Permanent Representative in Geneva enclosing a copy of Decision 1 (53) adopted by the Committee at its 11 August 1998 meeting.

2. The Committee requested the Government of Australia to provide it with information on the changes recently projected or introduced to the 1993 Native Title Act, on any changes of policy as to Aboriginal land rights, and of the functions of the Aboriginal and Torres Strait [Islander] Social Justice Commissioner.

3. The Committee states that it wishes to consider the compatibility of any such changes with Australia's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

I. INFORMATION ON THE CHANGES RECENTLY PROJECTED OR INTRODUCED TO THE 1993 NATIVE TITLE ACT

4. In July 1998, the Australian Parliament passed the Native Title Amendment Act 1998. It contained amendments to the Native Title Act 1993 (NTA) to deal with a range of issues. The majority of the amendments came into operation in September 1998.

5. The Native Title Act 1993 and the Native Title Amendment Act 1998 were the legislative responses of successive Commonwealth Governments to two landmark High Court decisions: the Mabo decision 1/ in June 1992 and the Wik decision 2/ in December 1996. These two decisions transformed the way in which Australian law regarded the relationship of indigenous people with land. The Mabo decision recognized for the first time that Australia's indigenous people had common law rights flowing from their traditional connection with land. The Wik decision held that these legal rights might exist even in relation to land the subject of a pastoral lease.

6. Both decisions potentially affected every aspect of land and water management in Australia, and associated resource development.

7. While the Committee has available the previous periodic report which discusses the Mabo decision, for completeness this paper briefly summarizes both decisions; outlines the original NTA and its principles; sets out the issues that arose from administrative and legal experience with the NTA; and summarizes the history and intention of the 1998 changes to the NTA.

A. The Mabo decision

8. Native title was first recognized in Australia by the High Court in Mabo in 1992. The majority of the Court held that the common law of Australia recognizes a form of native title existing in accordance with the laws and customs of indigenous people where: those people have maintained their traditional connection with the land; and their title has not been "extinguished" by a legislative or other act of government.

9. From comments made by members of the High Court in the decision, it was understood that the grant of a freehold or leasehold interest in land (including a pastoral lease) had "extinguished" native title, but that the mere reservation of land for later use, or its use specifically as Aboriginal land, had not extinguished native title.

10. The Mabo judgement had wide and complex legal and practical implications. For example, its interaction with the existing Commonwealth Racial Discrimination Act 1975 (that implements Australia's obligations under the Convention on the Elimination of All Forms of Racial Discrimination) raised the possibility that past acts by State and Territory governments over land where native title existed might be invalid.

11. The Government of the day thought it was necessary to protect native title, as the High Court had held that it was vulnerable to extinguishment, and to integrate it into Australian law and land management so that future economic activity and development could proceed.

B. The Native Title Act 1993

12. In its legislative response to the Mabo decision, the Commonwealth Parliament passed the Native Title Act 1993, the most important features of which were:

- The recognition and protection of native title, including the setting up of procedures to enable native title claims to be made to and determined by the National Native Title Tribunal and the Federal Court. A system of Aboriginal and Torres Strait Islander representative bodies was set up and funded by the Commonwealth Government to assist native title holders with the claims process;

- The NTA enables the validation of any State and Territory government acts before 1994 that may have been invalid because of native title. Native title-holders were entitled to compensation for any effect on their rights;

- In relation to all government acts from 1 January 1994 that might affect native title, the creation of a legislative regime under which acts done by governments (that is, the Commonwealth and State and Territory governments) on native title land were regulated. Native title was protected by the "freehold test": generally governments could not do acts on land where native title existed if such acts could not be done over freehold land. In the future, native title could generally only be extinguished in one of two ways: through an agreement between a government and the native title holders, or through a non-discriminatory compulsory acquisition by a government under legislation that complied with certain statutory criteria (compensation on just terms had to be paid for any such compulsory acquisition);

- The NTA also set out the ways in which governments could lawfully deal with land that may be the subject of native title rights and

interests into the future. For example, it allowed governments to renew non-native title interests such as agricultural leases and to confirm existing rights; and

- The creation of a statutory "right to negotiate" for registered native title claimants and determined holders over land where a government proposed to grant a right to mine or compulsorily acquire native title so as to allow a third party to undertake some development. This right was not an absolute veto over development, but gave native title-holders a right to negotiate with governments and developers about the future use of land. States and Territories were able to replace the Commonwealth right to negotiate with their own regimes. 3/

13. The NTA only set out a framework for the management of native title within Australia. It provided a means by which native title could be established in the National Native Title Tribunal and the courts. However, the content of native title and its relationship with non-native title rights and interests were left for the courts to determine in the future. It was assumed at the time that the NTA was passed, however, that native title had been extinguished on freehold land (confirmed by the High Court in September 1998 4/). It was also assumed to have been extinguished on leasehold land, on the basis that the grant of a leasehold interest necessarily involved a grant of exclusive possession.

14. The NTA recognized that land management was essentially a State and Territory (that is, not Commonwealth) responsibility, and that native title would have to be accommodated in State and Territory regimes.

15. It was clear that the then Government accepted in 1993 that the NTA itself was only a first step, and would need revisiting by the Parliament in the future.

16. To summarize, the NTA had four major elements:

- it established a process for the recognition of native title within the Australian legal system;

- it ensured the future protection of native title, since in common law native title was susceptible to extinguishment by inconsistent grants;

- it provided certainty to governments and others in relation to land management activities in the past and in the future; and

- provided a framework for dealing with native title.

17. However, judicial decisions and administrative experience after the enactment of the NTA raised a number of significant issues in relation to its operation.

C. Court cases affecting the operation of the Native Title Act

Pre-Wik cases

18. In 1995 the High Court decision in Brandy 5/ raised constitutional questions about the role of the National Native Title Tribunal, and suggested that it could not make determinations of native title even where all parties agreed.

19. Again in 1995, the Federal Court held in Lane 6/ that native title claims were required to be registered as soon as they had been lodged. Native title claimants therefore had automatic access to the right to negotiate, whether or not their application could satisfy the acceptance test in the NTA. That test had been designed as an initial filter to ensure that claims that were frivolous or vexatious, or that prima facie could not be made out, did not obtain the significant statutory rights that the NTA provided. In 1996 in Waanyi, 7/ the High Court also found that the Native Title Registrar could not refuse to accept a claim if there was a legal doubt about whether native title may or may not exist over the area claimed.

20. This and other factors led to large numbers of overlapping and multiple claims for the same area.

21. In response to the Brandy and Lane decisions in 1995, the then Labor Government introduced a bill into the Australian Parliament that contained amendments to ensure the constitutional validity of the determination process, and to create a new registration test for claims. That bill was not debated before the 1996 federal election was called.

The Wik decision

22. The High Court's Wik decision on 23 December 1996 demonstrated that the assumption that native title had been extinguished by the grant of a lease was wrong, and that native title may still exist on pastoral lease land.

23. In summary, a majority of the High Court held that the grant of particular pastoral leases under Queensland legislation did not confer exclusive possession on the pastoral lessees, and that any native title in relation to that land had not necessarily been extinguished by the grant of those leases. The majority of the Court found that where an inconsistency arises between the rights enjoyed by native title holders and the rights conferred upon the lessee, native title rights must yield to the extent of the inconsistency to the rights of the lessee.

24. The Wik decision gave rise to new issues under the NTA:

- governments had carried on activities after 1 January 1994 on pastoral lease land without complying with NTA procedures on the understanding that there was no native title there; those acts could be invalid if native title existed on that land;

- the recognition that native title could "co-exist" with the interests of other parties in particular land was significant; the NTA as enacted in 1993 provided no mechanism for managing this inter-relationship; and

- where native title was of this co-existing kind, it was clearly not equivalent to full ownership. The "freehold test" as the test of what kinds of acts could be done by governments in the future was not always appropriate.

25. In summary, the original NTA did not adequately take account of the possibility that native title might exist on pastoral leases. It did not therefore adequately address the legal relationship between these co-existing rights. It left both native title holders and pastoralists uncertain of their rights under the NTA.

D. Limitations in the 1993 Act

26. Apart from the effect of these judicial decisions, problems with the administration of the NTA became apparent soon after it came into operation. For indigenous people, the NTA processes were proving lengthy. For example, at the time the Native Title Amendment Bill was being debated in 1998, there were around 700 applications for native title determinations and only two determinations of native title on mainland Australia (at December 1998 there are still only four mainland determinations and one offshore).

27. Of major significance were the deficiencies of the provision in the original NTA that allowed for agreements between native title holders and governments. Where there had not been a determination of native title, there was no certainty that the indigenous parties to any agreement were indeed the native title holders. There was no way to make sure that agreements could be legally binding. Since agreements are an important way of avoiding costly and contentious litigation, and the principle of encouraging agreements was supported by all parties, this was a significant defect in the NTA.

28. Other issues included that the provisions that should have allowed the right to negotiate to be replaced for low impact mining and petroleum exploration titles proved to be almost unworkable. The right to negotiate process itself was the cause of unanticipated delays, in part due to the difficulties dealing with multiple claimants.

29. Indigenous people were not being assisted to the extent originally envisaged by the Aboriginal/Torres Strait representative bodies. These bodies lacked explicit powers and functions, and their accountability regime was not in line with the importance of their intended role.

E. Developing the amendments

30. In summary, by 1997 it had become apparent that the NTA needed to be significantly amended: to put in place an appropriate registration test for native title claims; to resolve the constitutional difficulties arising from the Brandy decision; to give greater recognition to the role of Aboriginal/Torres Strait Islander representative bodies and better specify

their roles and responsibilities; to ensure legal certainty for voluntary negotiated agreements and encourage their use; and deal with the effects of the Wik decision.

31. As part of developing its response to the Wik decision, the Government undertook from early 1997 an extensive consultation phase with all interest groups, including indigenous groups, miners, pastoralists, State and Territory governments and local government. The Prime Minister met with representatives of all groups on a number of occasions in an attempt to develop an agreed legislative response.

32. In May 1997, the Prime Minister released the "10-point plan". It became the basis for a draft bill that was released in June of that year for consultation. An amendment bill was presented to Parliament in 1997 and again in 1998, and the Native Title Amendment Act 1998 was finally passed in July 1998. As part of the parliamentary process, the Government proposed or accepted a significant number of amendments to the bill. For example, the Government proposed amendments to the bill to strengthen the process of notifying native title parties about a range of acts that can be done on native title land (the future act regime). Most of the Native Title Amendment Act commenced on 30 September 1998, with the remainder commencing on 30 October 1998.

F. A summary of the changes to the Native Title Act

1. Changes dealing with non-Wik issues: Brandy issues

33. To overcome the constitutional problems raised by the Brandy case, all applications for determinations of native title and compensation under the NTA are made directly to the Federal Court, rather than the National Native Title Tribunal. 8/ The Tribunal retains, among others, the function of mediating claims where the Federal Court believes this would assist resolve outstanding issues between the parties. 9/ It has been given additional functions of providing assistance to parties to reach agreements, including those concerning the exercise of "statutory access rights" (see below).

2. Registration test

34. The "acceptance test" has been replaced by a new registration test applied by the Native Title Registrar. 10/ Claimants who pass the registration test obtain significant procedural rights under the NTA and:

- can be parties to a right to negotiate process;
- will have the right to be notified and comment about certain activities done by governments, and about mining and compulsory acquisitions to which the right to negotiate does not apply;
- are eligible to exercise statutory access rights; and
- can respond to "non-claimant applications" (where non-native title parties can apply for a determination that native title does not exist).

35. To be registered, claimants must be authorized on behalf of the claimant group; show that prima facie at least some of the native title rights and interests claimed can be established; show that at least one member of the claim group has or had a traditional physical connection with at least part of the land; ensure that any native title rights do not consist of the assertion of the ownership of minerals etc. where the Crown wholly owns them; not claim exclusive rights offshore; and ensure that the native title rights claimed have not been otherwise extinguished.

36. The failure of a claim to pass the registration test does not prevent it from continuing in the Federal Court.

3. Confirmation provisions

37. In response to legal uncertainty in a range of areas, the NTA enables the past extinguishment of native title by the grant of previous exclusive possession tenures to be confirmed by States and Territories. These confirmation provisions seek to reflect the common law, but remove the need for lengthy case-by-case determination by the courts.

38. These grants include freehold and residential, commercial, community purposes and some agricultural leases, and a Schedule of specific types of such leases. The States and Territories are allowed to confirm extinguishment on these exclusive possession tenures in their jurisdiction, in particular those that are set out in the Schedule to the NTA. 11/ Just terms compensation is assured should it be the case that there was in fact no prior common law extinguishment on any of these tenures. 12/

39. Applications for native title cannot be registered over these tenures. However, only a small percentage of the total area of Australia is potentially affected by the confirmation regime - it is estimated that the Schedule of leases represents about 7.7 per cent of Australia, with freehold representing about another 12.8 per cent. This leaves around 79 per cent of Australia that is potentially claimable where traditional connection with the land can still be established.

40. An amendment to the bill took account of the views of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund. The Committee recommended that the Government should deal sensitively with those situations where indigenous people continue to live on reserves and are unable to register native title applications. Accordingly, the Government proposed amendments that allow native title claimants in occupation of land the subject of a land rights type grant or held on trust for indigenous people, to overcome the effect of past extinguishment by any historical act and have their claim determined. 13/ Further land over which native title has been extinguished, even where that extinguishment had been confirmed, can be claimed where it has reverted to vacant Crown land. 14/

4. Agreements

41. A comprehensive and legally effective agreements process is included, based on a system of registration of "indigenous land use agreements" 15/ The resources industry and indigenous communities have been increasingly

interested in negotiating agreements, and there is wide support for these provisions. These agreements can cover any matters relating to native title including for instance, compensation; procedural rights that are to apply instead of the right to negotiate or other procedures under the NTA; the manner of exercise of native title and non-native title rights in an area, for example, on a pastoral lease; and the surrender of native title. They can also allow acts to be done that would otherwise not be possible under the NTA, such as the granting of a non-exclusive lease on vacant Crown land and, where State or Territory legislation allows it, they can also validate acts that have been done invalidly, or that may be done invalidly in the future.

5. Rights of governments

42. The amendments also clarify the rights of governments to authorize the use and management of water; to provide facilities for services to the public; and to implement past reservations of land for a particular purpose. 16/ Native title holders must in many cases be given an opportunity to comment on the proposed activity, and compensation is payable by the government for any effect on native title.

6. Alternative regimes

43. There is an increased ability for native title claims processes to be managed within State and Territory land systems. Provided criteria set out in the Act to ensure independence and appropriate resourcing are met, State and Territory tribunals can undertake National Native Title Tribunal and Native Title Registrar functions (including applying the registration test). While set up under the law of the relevant jurisdiction, these tribunals will be applying NTA provisions in such cases. 17/

7. Relationship with the Racial Discrimination Act 1975

44. New section 7 inserted by the Native Title Amendment Act 1998 provides that the NTA is intended to be read and construed subject to the provisions of the Racial Discrimination Act 1975 (the RDA, that implements Australia's obligations under CERD). The new section reflects the position under the original section 7 of the NTA, namely, that nothing in the NTA affects the operation of the RDA. This means that the RDA will apply to the performance of functions and the exercise of powers conferred or authorized by the NTA. Ambiguous provisions in the NTA should be construed consistently with the RDA.

8. Compulsory acquisitions

45. Generally, in the future native title will only be able to be extinguished by agreement with the native title holders or by a non-discriminatory acquisition process. The amended NTA maintains and indeed strengthens the provisions in relation to compulsory acquisition of native title. The relevant provisions are as follows:

- native title can be compulsorily acquired and thereby extinguished by governments only where freehold title can be compulsorily acquired;

- native title can only be compulsorily acquired and extinguished if the law under which the acquisition takes place permits both compulsory acquisition of native title rights and non-native title rights;

- native title can only be compulsorily acquired and extinguished if in the particular case the native title rights and non-native title rights are acquired;

- native title can only be compulsorily acquired and extinguished if the practices and procedures adopted in acquiring the native title rights and interests are not such as to cause the native title-holder any greater disadvantage than is caused to the holder of non-native title rights and interests when their rights and interests are acquired; and

- just-terms compensation is assured, plus an ability by the native title-holders to request non-monetary compensation and a requirement that there be negotiation in good faith on this issue. 18/

46. This is a strengthened non-discriminatory regime. It gives native title-holders the same protections as freeholders, and some additional protections. Significant specific procedural rights are provided to native title-holders in relation to the compulsory acquisition for third parties for an infrastructure facility, and the right to negotiate or appropriate State or Territory regimes are available for other compulsory acquisitions for third parties. The policy of the Government is that there will be in the future legitimate land management needs for native title and non-native title land, such as suburban developments, public infrastructure and agricultural developments. At the same time, it provides significant rights to native title-holders in relation to those legitimate government activities.

9. Amendments relating to the Wik decision

47. The most important of the amendments in relation to the Wik decision are as follows:

(a) Validation provisions

48. States and Territories can validate acts done in the period 1 January 1994 to the date of the Wik decision, but only where those acts were done on current or former leasehold or freehold land. 19/ The validation provisions are similar to those contained in the original Act but are not as wide-ranging. Amendments made to the bill in 1998 ensure that native title-holders and representative bodies are required to be notified of mining grants that may be affected by the validation provisions.

(b) Primary production activities

49. The amendments also expressly confirm that pastoralists can lawfully carry on activities under their pastoral lease notwithstanding that native

title may co-exist and, in line with what the High Court found in Wik, that the exercise of pastoral rights "prevail" over the exercise of native title rights on pastoral lease land. 20/

50. In addition, governments are not prevented under the NTA from authorizing the carrying on of other primary production activities on pastoral lease land. State and Territory land management and environmental regulatory regimes will continue to apply as they did before Mabo, the NTA and Wik. The amendments ensure that the States and Territories retain the capacity to manage those issues, notwithstanding that native title may exist on pastoral lease land.

51. These primary production provisions cannot be used to extinguish native title. Under the amendments the only way in which native title can be extinguished on a pastoral lease is by agreement with the native title-holders, or by its acquisition by government under non-discriminatory acquisition legislation. In some jurisdictions, acquisitions can only be made for "public purposes".

52. The NTA also allows governments to continue to grant off-farm grazing and irrigation rights, and to provide for the removal of some resources from pastoral lease lands, but with procedural rights and compensation to native title-holders. 21/

(c) The right to negotiate

53. The right to negotiate process is a unique statutory right. It has been streamlined, its application in some circumstances has been removed and the ability of States and Territories to implement their own appropriate regimes has been increased.

54. Where the right to negotiate has been reworked, native title-holders must still have the same rights as freeholders, and, in particular, the right to be notified, to be consulted, to object and be heard by an independent body. 22/

55. States and Territories are given additional abilities to replace the full Commonwealth right to negotiate with their own regimes on pastoral lease land and other land where native title is only a co-existing right. 23/ States and Territories are also able to replace the right to negotiate for low impact mining grants such as exploration, prospecting and fossicking, for alluvial gold and tin mining, and opal and gem mining with alternative procedural rights. 24/

56. Significant conditions are set out in the amended NTA that must be satisfied before the Commonwealth will approve any State/Territory regimes. In some cases, such conditions include the existence of legislation for the protection of sites of significance to indigenous people. 25/

(d) Statutory access rights

57. In response to the Wik decision, concern was expressed by some indigenous groups that pastoral lessees may attempt to prevent native title

claimants who have regularly had access to the lessee's land for the purpose of conducting traditional activities from continuing that access. Conversely, some pastoralists were concerned that native title claimants who had not previously had access to pastoral leases would attempt to do so, notwithstanding that they had a weak claim.

58. The amendments guarantee that registered native title claimants can continue to have existing access to pastoral lease land while waiting determination a claim for native title - this is to protect registered claimants so that they cannot be denied long-standing access as a possible means of weakening their native title claim. 26/

G. The compliance of the amendments with the principles of the Native Title Act

59. At the beginning of the paper, four basic principles were described on which the original NTA was formulated. The summary below considers the amendments to the NTA against those principles to show their compliance with the fundamentals of the original NTA.

(i) Recognition of native title. The NTA continues to recognize and protect native title. 27/ Under the amendments, a process for recognition remains, but claims are commenced in the Federal Court rather than the National Native Title Tribunal. However, the National Native Title Tribunal maintains a role in mediation, and there is a more legally certain agreements process that can facilitate recognition. While the States and Territories are able more easily to use their own tribunals rather than the National Native Title Tribunal, they must meet the NTA criteria of independence and sufficient resources 28/ and most importantly, operate directly under the Commonwealth NTA, not State and Territory law. This ensures a nationally consistent system.

(ii) Protection of native title. It is still the case that native title can generally only be extinguished under the NTA through agreement with native title-holders or by means of non-discriminatory compulsory acquisition process. In almost all other cases the non-extinguishment principle applies. The "freehold test" is retained in many circumstances; that is, native title is awarded the same protection as freehold, the highest form of land title in Australian law. The NTA recognizes and protects potentially co-existing native title on pastoral leases, which represent over 40 per cent of Australia's land mass. Where the right to negotiate is revised or replaced, significant procedural rights must be awarded to native title-holders and registered claimants. Generally, there must be consultation about ways of minimizing the impact of mining and acquisition on native title, and access to an independent body.

(iii) Legal certainty for governments and third parties. States and Territories are able to validate certain acts done in the period prior to the Wik decision. Governmental functions are also assured provided that the specified procedures are followed.

(iv) The NTA as a framework. While the position of exclusive possession tenures has now been put beyond doubt in the interests of certainty, the content of native title and its inter-relationship with non-native title interests will still largely be a matter for future judicial consideration.

H. The Indigenous Land Fund

60. The Aboriginal and Torres Strait Islander Land Fund (Land Fund) was established in 1994 as part of the Government's response to the Mabo decision. Its purpose was to assist indigenous people to purchase land in recognition that many native title rights had already been extinguished.

61. The Government is committed to continued support for the operation of the Land Fund and the role of the Indigenous Land Corporation (ILC) which seeks to assist indigenous people to acquire and manage land in a sustainable way.

62. The Land Fund was established with an initial allocation of $A 200 million in 1994-95 and subsequent allocations of $A 121 million per year (indexed). This will provide a guaranteed capital base of $A 1.3 billion, and continued funding for the ILC for land purchase. In 1998-99 the Fund will provide $A 50 million to the ILC for land purchases. The ILC has set a priority for its first five years of operation on restoring land of cultural significance to indigenous people.

63. In addition to the funding of the Land Fund, the Government expects to have spent a total of $A 268 million on native title in the period 1996-97 to 1999-2000, made up as follows:

- native title claims assistance (funding to representative bodies): $A 168 million ;
- national Native Title Tribunal: $A 83 million; and
- native title cost sharing with the States and Territories: $A 17 million.

64. Fifteen per cent of the Australian continent is now Aboriginal-owned or -controlled.

65. In summary, the amended Native Title Act provides the following benefits to native title-holders:

- respects the common law and implements the Mabo decision;

- recognizes and protects native title so that it can still be claimed, in line with the Wik decision, over 79 per cent of Australia;

- makes proper provision for co-existing native title on pastoral lease land;

- guarantees registered native title claimants' existing access to pastoral land pending a native title determination;

- provides a clearer claims process and deals with the overlapping and multiple claims that are dividing Aboriginal communities;

- recognizes and strengthens the role of native title representative bodies to facilitate the recognition and protection of native title;

- enables the legal certainty of agreements that are essential for co-existence; and

- the Government has maintained the Land Fund to enable the purchase of land where native title has been extinguished.

II. POLICY ON ABORIGINAL LAND RIGHTS

A. Summary of indigenous land rights in Australia

66. Most Australian States and Territories have some form of legislation relating to the provision of access, and granting of land, to indigenous peoples. Commonwealth land rights legislation seeks to recognize and provide for Aboriginal people and Torres Strait Islander rights and needs in relation to land. The Commonwealth legislation includes the Aboriginal Land Rights (Northern Territory) Act 1976 (the ALRA), the Aboriginal Land Grant (Jervis Bay Territory) Act 1986 and the Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987. These Acts provide for land rights in the Northern Territory, the Jervis Bay Territory, and the Lake Condah and Framlingham Forest regions in Victoria respectively. In December 1995, the Jervis Bay National Park and Botanic Gardens were handed back to the Aboriginal Community Council. In Victoria, the legislation provides for the grant of some land in Victoria to Aboriginal people.

67. The ALRA makes provision for the granting of inalienable freehold title with exclusive rights of possession and access to land in the Northern Territory to Aboriginal Land Trusts. Since the commencement of the Act almost half of the land in the Northern Territory has been granted to Aboriginal Land Trusts as a result of land claims.

B. Review of the Aboriginal Land Rights Act

68. The ALRA has not been the subject of a major review since 1983. The Government has previously announced that it will maintain the current right of

Aboriginal people to consent to mineral exploration on land held by them. On 16 July 1997, the Minister for Aboriginal and Torres Strait Islander Affairs, Senator John Herron, announced a review of the ALRA, and in October 1997 Mr. John Reeves, QC, was appointed to undertake the review.

69. After an extensive consultation process, which included consultation with Aboriginal people, the report "Building on Land Rights for the Next Generation: Report of the Review of the Aboriginal Land Rights (Northern Territory) Act 1976" was presented to the Minister for Aboriginal and Torres Strait Islander Affairs on 20 August 1998. The report is wide-ranging and makes recommendations for substantial changes to the ALRA.

70. The Government referred the Reeves Report to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs in December 1998. Referral of the report to the Standing Committee provides an opportunity for ascertaining the views of those with an interest in the recommendations of the report. The Government will develop its response to the Reeves Report in the context of responding to the Standing Committee's report.

III. FUNCTIONS OF THE ABORIGINAL AND TORRES STRAIT ISLANDER SOCIAL JUSTICE COMMISSIONER

71. The Aboriginal and Torres Strait Islander Social Justice Commissioner (the Social Justice Commissioner) is a member of the Human Rights and Equal Opportunity Commission (the Commission). The Commission is an independent authority established under Commonwealth legislation. Its functions include handling complaints of discrimination under Commonwealth anti-discrimination legislation (including the Racial Discrimination Act 1975), the promotion of awareness of human rights and the education of the community about human rights. The Social Justice Commissioner is appointed under the provisions of the Human Rights and Equal Opportunity Commission Act 1986. The position of Aboriginal and Torres Strait Islander Social Justice Commissioner was created as a result of the findings of the Royal Commission into Aboriginal Deaths in Custody and the National Inquiry into Racist Violence. The position was created in 1992.

A. The functions of the Social Justice Commissioner

72. The Social Justice Commissioner's principal functions and responsibilities are set out in section 46C of the Human Rights and Equal Opportunity Commission Act 1986. These have remained unchanged since the position was created in 1992. The principal functions include:

(a) To submit a report to the Minister, as soon as practicable after 30 June in each year, regarding the enjoyment and exercise of human rights by Aboriginal persons and Torres Strait Islanders, and including recommendations as to the action that should be taken to ensure the enjoyment and exercise of human rights by those persons;

(b) To promote discussion and awareness of human rights in relation to Aboriginal persons and Torres Strait Islanders;

(c) To undertake research and educational programmes, and other programmes, for the purpose of promoting respect for the human rights of Aboriginal persons and Torres Strait Islanders and promoting the enjoyment and exercise of human rights by Aboriginal persons and Torres Strait Islanders;

(d) To examine enactments, and proposed enactments, for the purpose of ascertaining whether they recognize and protect the human rights of Aboriginal persons and Torres Strait Islanders, and to report to the Minister the results of any such examination.

73. The Social Justice Commissioner was given additional functions in 1993. Section 209 of the Native Title Act 1993 provides that:

> "(1) As soon as practicable after 30 June in each year, the Aboriginal and Torres Strait Islander Social Justice Commissioner (appointed under the Human Rights and Equal Opportunity Commission Act 1986) must prepare and submit to the Commonwealth Minister a report on:
>
> (a) the operation of this Act; and
>
> (b) the effect of this Act on the exercise and enjoyment of human rights of Aboriginal peoples and Torres Strait Islanders.
>
> (2) The Commonwealth Minister may at any time, by written notice, direct the Commissioner to report to the Commonwealth Minister on any matter covered by paragraph (1) (a) or (b)."

B. Proposed restructuring of the Commission

74. The Commonwealth Government is proposing to restructure the Commission. Legislation that would have implemented these changes lapsed on the calling of the Federal election in August 1998. It is the Government's intention to reintroduce the legislation into Parliament as soon as possible.

75. The legislation provides for the refocusing of the Commission's functions, in order to give greater priority to education, dissemination of information on human rights and assistance to business and the general community.

76. The Commission's new structure, which is aimed at enabling the Commission to work in a more streamlined, cooperative and cohesive manner, and to make better and more efficient use of its resources, will provide for three deputy presidents to replace the five current special-purpose Commissioners. In addition to the position of Social Justice Commissioner, these current special-purpose Commissioners are the Race Discrimination Commissioner, the Sex Discrimination Commissioner, the Disability Commissioner and the Human Rights Commissioner.

77. Under the proposed new structure, one deputy president will be assigned general responsibility for sex discrimination and equal opportunity matters; one will be assigned human rights and disability discrimination; and one will have responsibility for matters concerning Aboriginal and Torres Strait Islander social justice and race discrimination.

78. This proposed restructuring of the Commission will not change in any way the functions of the Commission in relation to the enjoyment and exercise of human rights by Aboriginal people and Torres Strait Islanders. All those functions listed above will continue to be performed. However, because there will no longer be a specific Aboriginal and Torres Strait Islander Social Justice Commissioner, the functions will be performed by the Commission as a whole. It will be a matter for the Commission to delegate responsibility for the performance of these functions to the relevant deputy president.

Notes

1/ Mabo v. Queensland (No. 2) (1992) 175 CLR 1 ("Mabo").

2/ Wik Peoples v. Queensland (1996) 187 CLR 1 ("Wik").

3/ Section 43 of the NTA.

4/ Fejo and Another on behalf of the Larrakia People v. Northern Territory (1998) 156 ALR 721.

5/ Brandy v. Human Rights and Equal Opportunity Commission (1995) 183 CLR 245.

6/ Northern Territory v. Lane (1995) 138 ALR 544.

7/ North Ganalanja Aboriginal Corporation v. Queensland (1996) 185 CLR 595.

8/ Section 61.

9/ Section 86B.

10/ Sections 190A, 190B, 190C, and 190D.

11/ Section 23E.

12/ Section 23J.

13/ Section 47A.

14/ Section 47B.

15/ Division 3, Subdivisions B, C, D, and E.

16/ Sections 24HA, 24KA, and 24JA respectively.

17/ Section 207B.

18/ Section 24MD.

19/ Section 22F, and section 22A in relation to Commonwealth acts.

20/ Sections 24GA, 24GB, and 24GC.

21/ Sections 24GD, and 24GE.

22/ Subsections 24MD(6A) and (6B).

23/ Section 43A.

24/ Sections 26A, 26B, and 26C, respectively.

25/ For example, subsection 43A(7).

26/ Division 3, Subdivision Q.

27/ Section 10.

28/ Subsection 207B(4).

UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/348
21 January 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

Documents submitted in compliance with a request of the Committee under article 9, paragraph 1, of the Convention*

CZECH REPUBLIC

[14 January 1999]

* The present document contains additional information pursuant to a request of the Committee in decision 2 (53), adopted on 11 August 1998 (A/53/18, para. 22).

GE.99-40202 (E)

Position of the Government of the Czech Republic regarding the request of the Committee on the Elimination of Racial Discrimination contained in its decision 2 (53) of 11 August 1998

1. The Government of the Czech Republic expresses its appreciation to the Committee on the Elimination of Racial Discrimination. With reference to the Committee request of 11 August 1998 contained in its decision 2 (53) for information on the measures that, according to disturbing reports, are contemplated in certain municipalities and that could lead to a physical isolation (physical segregation) of some residential units housing Roma families, the Government of the Czech Republic presents the following information: Aside from the situation in Maticní Street in Nestemice, Usti nad Labem, North Bohemia, the Government is not aware of any other efforts in the Czech Republic to subject Romas to certain forms of isolation. The Government is confident that, in a society enjoying freedom of speech and of the press, such cases would become known to the general public, and thus to the Government.

2. For these reasons, the Government thinks that the plural form used in the Committee request is not appropriate in this situation.

3. What is more, the situation on Maticní Street, Nestemice, does not suggest physical isolation (much less segregation) of the tenants in the two residential blocks that are to be separated from the street by a fence 1.8 metres high, without gates. With the fence in place, the tenants will not have direct access to Maticní Street from the residential blocks. This measure would affect approximately 35 families (150 persons) living in the blocks, 90 per cent of whom are Romas. These families have been allocated "flats with minimum basic conveniences" in the two residential blocks by the local authority following eviction from their former homes due to non-payment of rent. The local government intends to build new footpaths for these families on the other side of the blocks that will give access to the main street at a point other than the present access.

4. The Government views this proposal of the local authority as grave and alarming. This measure might be understood as a possible infringement on human rights, namely of human dignity and equality before the law without distinction as to social and ethnic origin or property. The recent statements of certain memebers of the local authority in Nestemice suggest that the decision to erect the fence might be revoked.

5. The Government representative for human rights visited the locality in October 1998 and held talks with members of the local government and with the Romas. The visit by the President of the Republic in December 1998 further calmed the situation.

6. The Government greatly appreciates the fact that the Roma tenants on Maticní Street managed to join forces and, through their civic association, established a dialogue with the local government and removed the garbage that was one of the causes making non-Roma residents on Maticní Street call for the erection of a fence.

7. The Government also appreciates the efforts of the local authority to establish a dialogue with all parties concerned.

8. The Government has entrusted its representative for human rights with discussing with the local authority the imperative need consistently to respect human rights. It has further asked its representative to report to the Government on the results of this debate before the work on the proposed fence commences. Should the preparation for the erection of the fence actually start, the Government will consider legal steps to countermand such a decision by the local authority.

9. The relevant Government resolution is attached, demonstrating that all actions of the Government of the Czech Republic in this matter are completely transparent.

10. The Government has resolved that the attached information, together with further information, will be presented by Mr. Petr Uhl, Government representative for human rights, during consideration of the matter before the Committee on the Elimination of Racial Descrimination in March 1999.

11. The Government of the Czech Republic takes the opportunity to assure the Committee on the Elimination of Racial Discrimination of its resolve to cooperate effectively with the Committee.

Annex

RESOLUTION
OF THE GOVERNMENT OF THE CZECH REPUBLIC

Resolution No. 35 of 11 January 1999 regarding decision 2 (53) of the Committee on the Elimination of Racial Discrimination of 11 August 1998 concerning the Czech Republic:

The Government

I. Takes note of

1. Decision 2 (53) of the Committee on the Elimination of Racial Discrimination (hereinafter referred to as the "Committee") of 11 August 1998 concerning the Czech Republic, included in Part III of the dosumentation submitted; and

2. The report of the Government Representative for Human Rights on the intention of the local authority in Usti nad Labem, Nestemice, to erect a fence without gates separating residential blocks Nos. 4 and 6 on Maticní Street from the pavement on Maticní Street, which is included in Part IV of the documentation submitted.

II. Adopts a position of the Government on the question raised in the decision referred to in Article I/1 of the present resolution (hereinafter referred to as the "position"), which is included in Part V of the documentation submitted.

III. Directs

1. The Minister for Foreign Affairs to transmit this position to the Committee before 14 January 1999,

2. The Government Representative for Human Rights

(a) To represent the Government during the consideration of the position before the Committee at its fifty-fourth session in March 1999 at Geneva; and

(b) To negotiate, in consultation with the head of the district office in Usti nad Labem, with the local council or local authority in Usti nad Labem, Nestemice, regarding the intention referred to in article I/2 of the present resolution and to report to the Government on the results of such negotiations before the commencement of the proposed construction work.

Responsible officials:

Deputy Prime Minister and Chairman of the Government Legislative Council,
Minister of Foreign Affairs,
Government Representative for Human Rights,
Head of the District Office in Usti nad Labem.

(signed)
Prime Minister
MILOS ZEMAN

UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/349
4 February 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Initial reports of States parties due in 1999

Note by the Secretary-General

1. An initial report under article 9, paragraph 1, of the Convention is due in 1999 from one State party on the following date:

Kazakhstan	25 September 1999

2. The initial report of the State party listed above will be issued in addendum to this document.

GE.99-40384 (E)

UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/350
4 February 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Second periodic reports of States parties due in 1999

Note by the Secretary-General

1. Second periodic reports under article 9, paragraph 1 (b), of the Convention due in 1999 are due from three States parties. The table below contains the date on which their second periodic reports are due, the symbol numbers of the documents containing their initial reports and the summary records of the meetings of the Committee at which such reports were considered.

States parties	Date on which second periodic report is due	Documents containing (1) initial reports	Summary records
Azerbaijan	15 September 1999	(1) CERD/C/350/Add.1	Pending consideration
Japan	14 January 1999	(1) Not yet received	-
Malawi	11 July 1999	(1) Not yet received	-

2. The second periodic reports of the States parties listed above will be issued in addenda to this document.

GE.99-40389 (E)

UNITED NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/350/Add.1
26 March 1999

ENGLISH
Original: RUSSIAN

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Second report of States parties due in 1999

Addendum

Azerbaijan*

[18 December 1998]

* This document contains the initital and second periodic reports, submitted in one document, due on 15 September 1997 and 1999, respectively.

The information submitted by Azerbaijan in accordance with the consolidated guidelines for the initial part of the report of States parties is contained in HRI/CORE/1/41/Rev.2.

GE.99-41033 (EXT)

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Introduction

1. This report is the first to be presented by the Government of the Azerbaijani Republic in accordance with point 1 of Article 9 of the International Convention on the abolition of all forms of racial discrimination.

2. The Azerbaijani Republic acceded to the Convention on the basis of Law No. 95-IQ of 31 May 1996, which was adopted by the National Assembly of the Azerbaijani Republic and signed by the President of the country.

3. The International Convention on the Abolition of All Forms of Racial Discrimination came into force for the Azerbaijani Republic on 15 September 1996.

4. On 19 August 1998 the President of the Azerbaijani Republic issued Instruction No. 873 setting up a Working Group to prepare an initial report by the Azerbaijani Republic under the International Convention on the Abolition of All Forms of Racial Discrimination, to include representatives of the Ministries of Foreign Affairs, of Internal Affairs, of Justice, of State Security, of Labour and Social Security, of the Supreme Court and the Procuracy General. Experts from non-governmental organisations and national and cultural centres of the Azerbaijani Republic were invited to work on the initial report on the same footing as the experts from the State organisations.

5. The initial report, which was prepared in accordance with the overall guiding principles adopted by the Committee on the Abolition of Racial Discrimination concerning the form and content of reports to be presented by States in accordance with point 1 of Article 9 of the Convention, examines the legislative, judicial, administrative and other measures adopted by the Azerbaijani Republic in order to implement the provisions of the Convention.

6. The Constitutional Act adopted by the national Parliament on 18 October 1991 "on the independence of the Azerbaijani Republic" states the following: "On the 28 May 1918 the National Council of the Azerbaijani Republic passed the Declaration of independence, thereby reviving the Azeri people's centuries-old tradition of statehood."

7. The Azerbaijani Republic enjoyed complete political authority within its territory and pursued independent foreign and domestic policies. Institutions characteristic of an independent State - the Parliament, Government, army and financial system of the Azerbaijani Republic - were created and began to function.

8. The Azerbaijani Republic was recognised by many foreign States and established diplomatic relations with them. But on 27 and 28 April 1920, in flagrant violation of international legal norms, the RSFSR, without declaring war, moved units of its armed forces into Azerbaijan, occupied the territory of the sovereign Azerbaijani Republic and overturned by force the lawfully elected government bodies.

9. The outcome of the Azerbaidjan people's struggle for state independence was the adoption on 30 August 1991 by the Supreme Council of the Azerbaijani Republic of the Declaration "On the re-establishment of the State Independence

of the Azerbaidjani Republic" and the Constitutional Act "On the State Independence of the Azerbaidjani Republic" on 18 October 1991.

10. The Azerbaijani Republic is situated where Asia and Europe meet, occupies the south eastern part of the Transcaucasian region, borders on Russia in the north, on Iran in the south, on Turkey, Georgia, Armenia in the west, and on the east through the Caspian Sea with Kazakhstan and Turkmenistan. Its territory extends over 86,600 thousand square kilometers. The Nakhichevan Autonomous Republic is part of the Azerbaijani Republic.

11. Baku is the capital of the Azerbaijani Republic.

12. As of 1 January 1998 the population of the Azerbaijani Republic numbered 7,631,600, including 3,762,400 males and 3,869,200 females. The urban population stood at 3,983,400 and the rural population at 3,648,200.

13. Together with the Azeris, who make up most of the population, there are Lezgins, Avars, Talyshes, Tsakhurs, Kurds, Armenians, Udins, Russians, Ukrainians, Tatars, Belorussians and members of other minorities living in Azerbaijan.

14. The Islamic, Orthodox and Catholic Christian religions, the Judaic and many other religious confessions are registered and active in Azerbaijan. Muslim mosques, Christian churches, synagogues, a German Kirche and places of worship of other religions are operating in Azerbaidjan.

15. The Azerbaijani Republic is a permanent member of UNO, OSCE, UNESCO, ILO, WHO and many other international and regional organisations. In June 1996 the Azerbaijani Republic was accorded "special guest" status at the Council of Europe.

16. To date the Azerbaijani Republic has established diplomatic relations with 135 States.

17. On 12 November 1995 an event of both social and political significance took place in terms of the adoption, following a national referendum, of the first Constitution of an independent Azerbaijan, drafted with reference to fundamental international legal principles and regulations. The Constitution proclaimed the policy of building a secular state based on legal institutions, universal human values, the primacy of law and the protection of human and civil rights and freedoms.

18. Following the re-establishment of independence a whole series of legislative instruments were adopted concerning human rights. These included the Law "On the Constitutional Court", the Law "On Courts and Judges", the Law "On the election of the President of the Azerbaijani Republic", the Law "On the election of the National Assembly of the Azerbaijani Republic", the Law "On education", the Law "On the mass media", the Law "On political parties", the Law "On public associations", the Law "On trade unions" and others.

19. At present work is in hand, with the participation of experts from the UNO, OSCE and the Council of Europe, on new drafts of the Criminal Code, the

Code on Criminal Procedure and the Civil Code, the Law on the Procuracy, the Law on the Police, the Law on the Notariate, the Law against corruption and others.

20. The Azerbaijani Republic has acceded to 116 international conventions, including fundamental multilateral treaties on human rights.

21. Article 7, part 2, of the Constitution states that "in the Azerbaijani Republic state power is limited in internal affairs only by law, and in external affairs only by the provisions of international treaties of which the Azerbaijani Republic is a member."

22. In accordance with Article 148 of the Constitution, international treaties of which the Azerbaijani Republic is a member are an inalienable component element of the legislation of the Azerbaijani Republic. In accordance with Article 151 of the Constitution, where contradictions arise between legal instruments and regulations forming part of the legislation of the Azerbaijani Republic (excluding the Constitution of the Azerbaijani Republic and instruments adopted by referendum) and international treaties of which the Azerbaijani Republic is a member, the provisions of the international treaties shall apply.

23. A number of Decrees of the President of the Azerbaijani Republic have been adopted in order to promote and protect human rights in the Azerbaijani Republic. These include the Decree "On measures to secure human and civil rights and freedoms", "On the State programme to protect human rights", "On additional measures to ensure freedom of speech, thought and information", "On the protection of the rights and freedoms of, and state support for the development of the language and culture of, national minorities, numerically small peoples and ethnic groups living in the Azerbaijani Republic."

24. In February 1998 in response to a proposal from the President of the Azerbaijani Republic the national Parliament revoked the death penalty in Azerbaijan.

25. The main obstacle to the development of Azerbaijan lies in the continuing aggression by neighbouring Armenia and the associated grievous consequences.

26. In order to evaluate correctly the causes of the war being waged against Azerbaijan by its neighbour state it is important to digress briefly into the recent past.

27. Armenian mass settlement on Transcaucasian territory, including in Azerbaijan, began in the first half of the 19th century. Historical evidence confirms that in 1828-29 alone 130,000 Armenians from the Middle East were resettled on the land where the Armenian Republic is located today, and later a further 600,000. The Armenians, taking advantage of the altered demographic balance, oppressed the indigenous Azeri population in various parts of the Transcaucasus in every possible way.

28. In 1918 there were 575,000 Azeris on the territory of present-day Armenia, constituting over one third of its total population. However, as a result of the Armenian Government's deliberate policy of forcibly ousting the Azeri population, out of a community over half a million strong, there is not a single Azeri left in Armenia today.

29. A major part in achieving the Armenian nationalists' plan to ethnically cleanse Armenia was played by the prominent Kremlin politician A. Mikoyan. Using his influence over Stalin he persuaded the "father of the peoples" to sign USSR Council of Ministers' Resolution No 4083 of 23 December 1947 "On the resettlement of collective farmers and other Azeris from the Armenian SSR to the Kura-Araksin lowlands in the Azerbaijani SSR" and No 754 of 10 March 1948 "On measures for the resettlement of collective farmers and other Azeris from the Armenian SSR to the Kura-Araksin lowlands in the Azerbaijani SSR". In line with the resolutions in the period 1948 to 1951 over 100,000 Azeris were forcibly resettled from their traditional motherland - the mountainous regions of Armenia - to the then waterless Mugano-Minuls steppe. Many of them did not survive the ordeal and perished.

30. The ousting of Azerbis from Armenian territory was accompanied at the same time by grave discrimination of their constitutional rights and a refusal to satisfy their national and cultural interests. Hundreds of thousands of Azeris remained in Armenia until 1988, living in compact groups, without being granted any national or cultural autonomy. Any attempt to even raise this issue was at once roughly and cruelly suppressed. In Armenia access to employment in State organisations was practically closed to Azeris.

31. The winter of 1988 witnessed a further escalation of ethnic cleansing, that culmination of a deliberate policy to destroy the very traces of Azeri presence in Armenia. On the responsibility and with the approval of the Armenian authorities the last 40,897 Azeri families (185,519 persons) were forcibly deported from their traditional land on the territory of the present day Armenian State. They all became homeless and destitute.

32. Mass expatriation was accompanied by murder and the infliction of bodily harm. During the ethnic cleansing of 1988 and 1989 altogether 216 Azerbaijanis died on Armenian territory. Most of the dead were children, women and elderly people.

33. Virtually all attacks on Azeri settlements in Armenia were approved by the Armenian authorities and were headed by leaders, senior district officials and employees of local law enforcement agencies.

34. There were hundreds of historical monuments which bore witness to the fact that Azeris had for many centuries rightfully belonged on the territory of contemporary Armenia. During the forcible expatriation of the Azeris these were either destroyed or altered to appear Armenian. Islamic places of worship and graves at Azeri cemeteries were defiled. Mosques and graveyard memorials were destroyed and dismantled for use as building materials.

35. In order to completely obliterate the fact that Azeris had lived in Armenia, about two thousand settlements which had previously borne Azeri names were renamed, of which 465 villages between 1935 and 1973, and 97 in 1991.

36. Thus did the community in the Armenian Republic strike the final and tragic chord in a meticulously planned campaign aimed at the physical extermination of its most numerous national minority, the Azeris.

37. The prologue to armed action against Azerbaijan were the anti-constitutional acts of externally supported separatist groups in the Nagorny Karabakh region of Azerbaijan. These took place in the context of decisions taken in violation of international law by the Armenian government authorities, the most notorious of which was the resolution adopted the Parliament of Armenia on 1st December 1989 "On the reunification of the Armenian SSR and Nagorny Karabakh." In Armenia's declaration of sovereignty of 23 August 1990 part of another state's territory - the Nagorny Karabakh region of Azerbaijan - is described as an inalienable part of the Armenian Republic.

38. The above-mentioned resolutions of the Armenian Parliament were carried into effect by its armed forces, making wide use of gangs and intense activation of the special services and terrorist organisations against sovereign Azerbaidjan, with a view to forcibly wresting from her part of her ancestral territories.

39. In spite of assertions by Armenian nationalist leaders concerning the violation of the Armenian minority's rights in Azerbaijan, all the basic indications of self-government were present in the Nagorny Karabakh Autonomous Region (NKAO), which had achieved significant social, economic and cultural development.

40. Under the Constitution of the Azerbaijani SSR the legal status of NKAO was defined by the law on the Nagorgy Karabakh autonomous region, proposed by the NKAO Soviet of People's Deputies and adopted by the Supreme Soviet of Azerbaijan. The Nagorny Karabakh region, being a national and territorial unit, had a form of administrative autonomy and accordingly enjoyed a number of rights which in practice ensured that its population's specific needs were met. Under the Constitution of former USSR the Nagorny Karabakh Autonomous Region was represented by 5 deputies in the Nationalities Council of the USSR Supreme Soviet. NKAO was represented by 12 deputies in the Supreme Soviet of the Azerbaijani SSR.

41. The NKAO Soviet of People's Deputies - the government authority in the region - had a wide range of powers. It decided all local issues on the basis of the interests of citizens living in the region, with reference to the interests of citizens living in the region and its national and other specific features. The NKAO Soviet of People's Deputies participated in discussion of issues of Republic-wide significance and made suggestions on them, implemented the decisions of superior government authorities, guided the work of subordinate Soviets. All the organs of state authority, of state administration, of the judiciary, the procuracy and of education performed their work in the Armenian language in accordance with the language needs of the population.

42. In the period 1971-85 capital investment to the value of 483 million roubles was channelled into the development of NKAO, which exceeded capital investment in the previous 15 year period 2.8 times. Over the preceding 20 years the volume of per capita capital investment increased nearly four-fold (226 roubles in 1981-85 against 59 roubles in 1961-65). Over the preceding 15 years housing facilities increased by 3.64 square metres per person in Azerbaijan as a whole, whereas for NKAO the figure was 4.76 square metres. The number of hospital beds per 10,000 of the population increased by 15% more in NKAO than in the rest of the Republic.

43. Despite the fact that, among the regions in the Republic, the NKAO ranked relatively high in terms of the number of pre-school places available, in the period 1971 to 1985 the region's increase in the number of places in children's institutions per 10,000 of the population exceeded the Republican average by 1.4. The same applies to the increase in the number of places for pupils in schools providing general education per 10,000 of the population: the NKAO was ahead by a factor of 1.6.

44. The fact that provision of housing, goods and services was superior to that in the Republic as a whole was typical of the social and cultural development of the region. The apartment area per person in the region was almost one third more than the average for the Republic, while the area available to countrydwellers was 1.5 times more than to the peasants of the Republic [as a whole]. The population of the region was better supplied with medium-level medical staff (by 1.3 times), and with hospital beds (by 3%). There was a more extensive network of institutions providing cultural and information services (more than 3 times the number of cinemas and clubs, twice the number of libraries), there were 1.6 times more books and magazines per 100 readers. 7.7% of school pupils in the region attended school in the second and third shift, whereas it was one out of four in the Republic as a whole, and 37% of children had pre-school places (compared with 20% in the Republic).

45. In fact the NKAO was developing more rapidly than Azerbaijan as a whole. Thus, whereas industrial output in the Republic increased 3 times between 1970 and 1986, the figure for NKAO was 3.3 times (the rate of growth here was 8.3 percent higher). In 1986 3.1 times more basic funds were brought into operation in the region than in 1970, whereas in the Republic the figure was 2.5. In terms of the basic indices of social development NKAO exceeded the average republican standard of living indices for Azerbaijani SSR and for Armenian SSR. Cultural construction increased significantly in the region, as throughout the Republic.

46. Accordingly, and as the experience of the NKAO's experience and development within Azerbaidjan confirms, the form of autonomy which had evolved was entirely appropriate to the specific social, cultural, national and daily needs of the population of the autonomous region.

47. Full-scale hostilities began to unfold end 1991/early 1992, when Armenian armed units engaged in fighting in the Nagorny Karabakh region of Azerbaijan, using the most modern weapons systems. Since May 1992 hostilities have spread beyond the confines of the former Nagorny Karabakh Autonomous Region and have extended to other regions of Azerbaijan. As a result of the war, which started over seven years ago, the armed forces of Armenia have occupied and are holding 20% of the total territory of Azerbaijan, including the Nagorny Karabakh region and territory four times greater than the area of the Nagorny Karabakh region itself.

48. The following is the chronology of the seizure of Azerbaijani towns and districts:

28 February 1992 - Khodzhaly.
8 May 1992 - Shusha.
18 May 1992 - Lachin.

3 April 1993 - Kelbajar.
28 June 1993 - Agdere.
23 July 1993 - Agdam.
23 August 1993 - Fizuli.
26 August 1993 - Djebrail.
31 August 1993 - Kubatly.
28 October 1993 - Zangelan.

49. As a result of the aggression and ethnic cleansing of Azeris both from the territory of Armenia itself and from the occupied Azerbaijani lands there are over one million refugees and displaced persons in Azerbaijan today, including people belonging to various minorities. In humanitarian terms a disastrous situation has evolved in Azerbaijan. Every year hundreds of old people, women and children die in the refugee camps as a result of disease and epidemics.

50. Since the aggression began, over 900 settlements have been plundered and destroyed. Armenia's aggression against Azerbaijan and the destruction of settlements is accompanied by barbaric pillaging and removal of property and valuables from occupied Azerbaijani territory to Armenia. The goods and valuables removed are resold to third countries, and the proceeds are used to finance the continuation of the war.

51. In the course of the war the armed forces of Armenia have plundered 113,000 residential buildings with a total area exceeding 9 million square meters. All the property from these buildings has been taken abroad. The total value of residential homes destroyed and property removed from them comes to tens of billions of dollars.

52. In its resolutions 822 (1993) of 30 April 1993, 853 (1993) of 29 July 1993, 874 (1993) of 14 October 1993 and 884 (1993) of 11 November 1993 the United Nations Security Council condemned the occupation of the territory of the Azerbaijani Republic, reaffirmed respect for the sovereignty, territorial integrity, and inviolability of the borders of the Azerbaijani Republic and the inadmissibility of the use of force for the acquisition of territory, and demanded the immediate cessation of hostilities and hostile acts as well as the immediate, complete and unconditional withdrawal of all occupying forces from the occupied districts of Azerbaijan.

53. At the last OSCE summit meeting the following principles were worked out for settling the armed conflict, recommended by the Co-Chairman of the OSCE Minsk Group and supported by all the OSCE member states with the exception of Armenia:

- the territorial integrity of the Armenian Republic and the Azerbaijani Republic.

- the legal status of Nagorny Karabakh as defined in the Treaty, based on self-determination and affording Nagorny Karabakh the highest degree of self-government within Azerbaijan.

- the guaranteed security of Nagorny Karabakh and the whole of its population, including mutual responsibility to ensure that all Parties observe the provisions of the settlement.

54. In spite of the unambiguous demands of the UN Security Council and the other above-mentioned organisations, Armenia continues to this day to hold occupied Azerbaijani territory and build up its military capability there.

PART II

INFORMATION CONCERNING ARTICLES 2-7 OF THE CONVENTION

55. Under the Constitution and legislation of the Azerbaijani Republic, racial discrimination is prohibited and is being eradicated in Azerbaijan. The recognition, utilisation and implementation of human rights based on equality and basic freedoms in political, economic, social, cultural and all other areas of social life is encouraged and protected.

56. The State guarantees equal rights and freedoms to all, irrespective of race, of skin colour, of tribal, national or ethnic origin and of all other distinctions. Moreover it prohibits the limitation on any of the afore-mentioned grounds of human and civil rights and freedoms.

57. Azerbaijan is a multiethnic country and the Government takes the necessary measures to establish conditions for the undeviating implementation of the rights and freedoms of the individual and the equality of rights of all citizens, and to ensure that representatives of ethnic minorities are drawn into active participation, on the basis of equality of rights, in all spheres of vital activity in the Republic.

58. The various minorities are well represented in the official State organisations of the Azerbaijani Republic, its Government and national Assembly. In towns and regions, settlements and villages where there are compact groups of ethnic minorities the leading posts in the State apparatus are held by representatives of the local population, which is clear evidence of the implementation of human rights and individual freedoms proclaimed in the Azerbaijani Republic, and of the equality of citizens irrespective of racial or ethnic affiliation or religion.

59. Over the last few years cultural centres, charities and other public organisations relating to all the minorities in the country have been set up. The State does what it can to afford these organisations material and financial aid from the State budget and from the President's Fund, specifically granting plots of land and tax exemptions.

60. According to the 1989 census, the ethnic composition of the Azerbaijani Republic is as follows (in thousands of persons):

Azerbaijanis	5.81
Russians	392,3
Armenians	390,5
Lezgins	171,4
Avars	44,1
Ukrainians	32,2
Jews	30,8
Tatars	28,6
Georgians	14,2
Others	112,0
Total population	7.631,6

61. As there is to be a census of the population in the Republic in the year 2000 it is not possible to give more precise data at present.

Article 2

62. Under Article 25 of the Constitution, entitled "The Right to Equality", the State guarantees the equal rights and freedoms of every person irrespective of race, nationality, religion, language, sex, origin and other distinguishing characteristics. Under the Basic Law it is prohibited to limit human and civil rights and freedoms on the grounds of any of the afore-mentioned characteristics. It is the duty of the bodies of legislative, executive and judicial power to protect the human and civil rights and freedoms enshrined in the Constitution. No-one may restrict the implementation of human and civil rights and freedoms.

63. Under Article 19 of the Constitutional Act "On the State Independence of the Azerbaijani Republic" all citizens in the Azerbaijani Republic are equal before the law.

64. It is a criminal offence under Article 67 of the Criminal Code of the Azerbaijani Republic to violate [the principle of] national and racial equality.

65. The principle of equality is reflected in the relevant clauses of the legislative instruments of the Azerbaijani Republic and in the Decrees of the President of the Azerbaijani Republic adopted in 1998 "On measures to secure human and civil rights and freedoms", "On the State Programme for protecting human rights", "On additional measures to secure freedom of speech, thought and information" and in the Instruction "On the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights in the Azerbaijani Republic."

66. In accordance with the Decree of the President of the Azerbaijani Republic "On the protection of rights and freedoms and on State support for the promotion of the languages and cultures of national minorities, numerically small peoples and ethnic groups living in the Azerbaijani Republic" dated 16 September 1992, the Presidential Staff, the Cabinet of Ministers, the ministries and departments, the heads of local executive bodies are implementing specific measures in pursuit of the State's policy in the following directions:

- the conservation and development of the distinctive cultures, languages and religions of national minorities and ethnic groups;

- the free exercise of national traditions and customs, religious rites and ceremonies, the conservation and utilization of holy sites;

- the free development of national trades, professional and amateur creative pursuits and national handicrafts;

- the safeguarding of historical and cultural monuments belonging to all national groups;

- the safeguarding and conservation of places that are important to the population, protected lands, parks and other natural features.

Article 3

67. Since the earliest days of its independence the Azerbaijani Republic has opposed racial segregation and apartheid.

68. The Azerbaijani Republic's Constitution and legislation guarantee that the prevention, prohibition and eradication of all practices of this nature shall constitute a duty within the Azerbaijani Republic

69. On 31 May 1996 the Azerbaijani Republic acceded to the International Convention on ending and punishing the crime of apartheid .

70. In view of the democratic process started in the Republic of South Africa the Azerbaijani Republic established diplomatic relations with it on 24 April 1992.

Article 4

71. Article 67 of the Azerbaijani Republic's Criminal Code, entitled "Violation of the principle of national or racial equality", holds persons criminally liable for "Actions deliberately intended to arouse national or racial hostility or strife, to lower national honour and dignity, equally to directly or indirectly restrict citizens' rights or to directly or indirectly establish advantages for citizens based on their membership of a racial or national group". Moreover the above-mentioned offences are aggravated if committed with violence, deceit or threats, likewise if performed by a person or group of persons in an official capacity, or if they result in death other grave consequences. The Criminal Code classes offences against this Article as treason.

72. Article 4 of the Azerbaijani Republic's Law "On political parties" does not allow the creation or operation of political parties whose aim or method of operation is to stir up racial, national or religious strife.

73. Similar articles are contained in the Azerbaijani Republic's Law "On public organisations" (Article 4) of 10 November 1992 and in the Azerbaijani Republic's Law "On trade unions" (Article 8) of 24 February 1994.

74. Article 4 of the Azerbaijani Republic's Law "On the mass media" of 21 July 1992 specifies that the use of the mass media for the purpose of promoting national, racial, religious and other kinds of discrimination will not be tolerated.

75. All the necessary legal regulations which make racist activity a criminal offence have therefore been adopted and are in operation in the Azerbaijani Republic.

76. Since the state independence of Azerbaijan was re-established, the law enforcement agencies of the country have not recorded a single case involving discrimination against citizens on the basis of racial, national or ethnic origin.

Article 5

A. The right to equality before the Courts

77. Under Article 60 of the Constitution "The defence of every person"s rights and freedoms before the courts is guaranteed".

78. Article 127 of the Constitution secures the principle that justice is done on the basis of the equality of citizens before the law and the courts.

79. The Codes of Civil Procedure and Criminal Procedure respectively contain provisions for the conduct of civil and criminal judicial proceedings based on the principle of citizens' equality before the law and the courts.

80. Under Article 25 of the Constitution and Article 7 of the Azerbaijani Republic's Law "On Courts and Judges"of 10 June 1997, justice is administered on the basis that every person is legally equal before the law and the court, irrespective of race, nationality and ethnic affiliation, religion and other distinctions.

81. Article 127 of the Azerbaijani Republic's Constitution enshrines the principle that all cases shall be examined in court in public. The verdicts of the courts are in all cases delivered publicly.

82. In the Azerbaijani Republic court proceedings are conducted in the official language of the Azerbaijani Republic or in the language spoken by the majority of the population in a locality. Persons involved in a case who do not have a command of the language in which judicial proceedings are conducted are ensured the right to familiarise themselves fully with the documents in the case, participation in the judicial acts through an interpreter and the right to speak their own language during court appearances. Violation of the right to use one's native language during judicial proceedings constitutes a grave violation of judicial procedure and entails repeal of the sentence.

B. The right to personal inviolability

83. Article 32 of the Azerbaijani Republic's Constitution guarantees the citizens of Azerbaijan personal inviolability.

84. This provision of the Constitution is applied in the Code on Criminal Procedure, Article 11, "Inviolability of the person", in which the above-mentioned provision is complemented by an instruction to the procurator to release immediately anyone illegally deprived of their liberty or held in custody for a period longer than specified by law or sentence. Offenders are subject to criminal prosecution. This applies also when the offences are committed by persons during the performance of their official duties. Article 174 of the Criminal Code provides for the accountability of persons conducting an inquiry, investigators and procurators who deliberately lay criminal charges against an innocent man for self-interested or personal motives. Under Article 175 of the Criminal Code judges who, for self-interested or other motives, deliberately issue an unjust verdict, decision, definition or instruction are accountable, while under Article 176 accountability is for deliberately unlawful detention or arrest.

85. Within the Azerbaijani Republic's Ministry for Internal Affairs there is a Special Directorate dealing with staff, which investigates irregularities in the treatment of citizens by employees of the police. For example during the first half of 1998 one employee of the internal affairs agencies was sacked and four persons were called to account under disciplinary procedures for infringement of human rights and freedoms in the Khanlar District Police Department. Within the Administration of the Ministry of Internal Affairs there is a complaints and registrations department which accepts complaints and statements from the public.

86. In the first half of 1998 altogether 94 internal affairs employees faced various disciplinary proceedings for infringement of human rights and freedoms.

C. Political rights

87. Article 55 of the Constitution guarantees citizens of the Azerbaijani Republic the right to participate in the government of the State, which they may exercise directly or through their representatives.

88. Article 56 of the Constitution gives the citizens of the Azerbaijani Republic the right to elect and stand for election to State bodies, and to participate in referenda.

89. Elections in the Azerbaijani Republic are conducted on the basis of universal, equal and direct suffrage, by free, personal and secret ballot vote.

90. A citizen obtains the right to vote on attaining his majority, that is at 18 years of age. The right to stand for election comes at the age of 18, or later: at 25 for election to Parliament, at 35 for President.

91. Under Article 3 of the Constitution the people of Azerbaijan may decide any issue involving its rights and interests by referendum.

92. Under the Constitution of the Azerbaijani Republic the following types of election take place in the Azerbaijani Republic: presidential elections, the election of deputies to the National Assembly (Parliament) and municipal elections.

93. The Constitutional Court of the Azerbaijani Republic announces the results of elections to the post of President of the Azerbaijani Republic. It also checks and confirms the propriety of elections of deputies to the National Assembly of the Azerbaijani Republic.

94. The following Laws have been passed in Azerbaijan to enable citizens of the Azerbaijani Republic to exercise their suffrage as guaranteed by the Constitution. "On elections to the National Assembly of the Azerbaijani Republic" of 12 August 1995, "On the election of the President of the Azerbaijani Republic" of 4 June 1998, "On referenda" of 30 December 1997, "On the Central Electoral Commission of the Azerbaijani Republic" of 15 May 1998.

95. Article 134 of the Criminal Code of the Azerbaijani Republic makes it an offence to obstruct the citizen's right to vote or to participate in a popular ballot (referendum). Article 135 of the Criminal Code makes it an offence to forge ballot papers in an election or popular ballot (referendum), to deliberately falsify the count or the results of an election or a popular ballot (referendum), or to violate the secrecy of a ballot. Article 135-1 of the Criminal Code makes violation of the laws on elections or on popular ballots a punishable offence.

D. Civil rights

(i) The right to freedom of movement and choice of place of residence within the State

(ii) The right to leave any country, including one's own, and to return to one's own country

96. In accordance with Article 28 of the Constitution, entitled "The right to freedom", every person may move about freely, choose his place of residence and leave the Azerbaijani Republic, and may likewise at any time return unhindered to his country. These rights may be limited only in accordance with legally established procedure, that is through detention, retention in custody or arrest. These rights are exercised in accordance with the specific procedures described in the Azerbaijani Republic's Law "On leaving and entering the country and on passports" of 14 June 1994.

(iii) The right to citizenship

97. Article 52 of the Constitution states: "A person who is subject to the Azerbaijani State, who has a political and legal relationship with it, and likewise mutual rights and obligations, is a citizen of the Azerbaijani Republic. A person born on the territory of the Azerbajani Republic or born to citizens of the Azerbaijani Republic is a citizen of the Azerbaijani Republic. A person one of whose parents is a citizen of the Azerbaijani Republic is a citizen of the Azerbaijani Republic."

98. Article 53 contains the guarantees of the right to citizenship. Thus a citizen of the Azerbaijani Republic may not in any circumstances be deprived of citizenship of the Azerbaijani Republic, exiled from the Azerbaijani Republic or handed over to a foreign state. Moreover the State guarantees legal defence and protection to its citizens temporarily or permanently resident abroad.

99. A citizen of the Azerbaijani Republic may not simultaneously hold citizenship of another State.

100. The old law "On citizenship" passed on 26 June 1990 was previously in force in Azerbaijan. A new law "On Citizenship" was drafted with the help of experts from the Council of Europe and the office of the UN High Commissioner for Refugees, and was adopted by the Parliament of the Azerbaijani Republic on 30 September 1998.

101. In accordance with the Constitution of the Azerbaijani Republic (Article 69) foreigners and stateless persons in the Azerbaijani Republic may enjoy all the rights of, and must fulfil all responsibilities on an equal footing with, citizens of the Azerbaijani Republic unless otherwise specified by law or an international treaty of which the Azerbaijani Republic is a member. The rights and freedoms of foreigners and stateless persons permanently resident or temporarily staying in the Azerbaijani Republic may be limited only in accordance with international regulations and the laws of the Azerbaijani Republic. These rights are exercised in accordance with the specific procedures described in the Azerbaijani Republic's Law "On the legal position of foreigners and stateless persons" of 13 March 1996.

102. The Azerbaijani Republic is a member of the Convention on the citizenship of married women, the Convention on the reduction of statelessness, the Convention on the status of stateless persons, the Convention and Protocol on the status of refugees.

(iv) <u>The right to contract a marriage and to select a spouse</u>

103. Under Article 34 of the Constitution of the Azerbaijani Republic every person has a right to found a family upon reaching the legal age for marriage. Moreover the Basic Law of the country guarantees the right to contract a marriage on the basis of freely given consent. No-one may be forced to contract a marriage. This provision is reflected in the Code of the Azerbaijani Republic on marriage and the family which stipulates in particular that marriages shall be contracted in the State offices responsible for registering civil status.

104. It is a necessary condition for entering into marriage to have reached the age established by law (18 for men and 17 for women). In certain exceptional cases the marriageable age may be lowered by the local authorities by a maximum of one year.

105. The marriage partners have equal rights within the family. The partners make decisions concerning the upbring of children and other family matters jointly. Each partner is free to choose an occupation, profession, place of residence and family. Parental rights may not be exercised in a way contrary to the interests of the children. A parent living apart from the children has a right to associate with them and to participate in their upbringing.

(v) <u>The right to own property both individually and together with others.</u>

106. Under Article 29 of the Constitution of the Azerbaijani Republic every person has a right to own property, and this is protected by the State. Moreover everyone may own moveable property and real estate. The right to property

includes the owner's right to own, use and dispose of property alone or jointly with other persons. Under the Basic Law of the country no-one may be deprived of property otherwise than by a court ruling. Complete confiscation of property is not permitted. The transfer of property to meet the needs of the State or of society is permissible only on condition of prior and just compensation of its value.

107. Property relations are governed by the Azerbaijani Republic's Law "On property" of 9 November 1991.

108. Under the Azerbaijani Republic's Law "On kinds of property which citizens may not own, based on considerations of State and social security, and of international obligations" of 2 December 1992. Such kinds of property include weapons (other than hunting weapons), enterprises to manufacture arms and ammunition, explosive or radioactive substances, and equipment to print securities.

(vi) The right of inheritance

109. Article 28 of the Constitution guarantees the right of inheritance.

110. This constitutional provision is governed by the Civil Code of the Azerbaijani Republic, which stipulates two kinds of inheritance, by law and by legacy.

(vii) The right to freedom of thought, conscience and religion

111. Article 48 of the Constitution of the Republic enshrines the right to freedom of conscience, that is every person's right to adopt his own attitude towards religion, to profess any religion whatsoever whether alone or jointly with others, not to profess any religion, and to express and propagate his convictions concerning religion.

112. The Law "On freedom of religion" of 20 August 1992 applies in the Azerbaijani Republic under which, in particular, it is not permitted to benefit or restrict any form of religion or of religious grouping relative to others.

113. That over 200 Muslim mosques, over 50 Christian churches and communities and five synagogues are currently registered in the Republic is confirmation of the above. The following are also active in Azerbaijan: religious communities, institutions and centres of the Muslims of the Caucasus, of the Russian Orthodox churches, of the Evangelical Christians or Baptists, of the Adventist communities, of an international Protestant Christian association (The Saving Grace), the Baku branches of the international Krishnaite and Baha'i associations. In addition hundreds of different religious groupings are active unofficially, of which about 60 are communities belonging to the Christian religion.

114. The Dean of the Russian Orthodox churches represents five Russian Orthodox churches of which three are in Baku, one in the Gyandzha district and one in the Khachmassk district of Azerbaijan. There are four working Georgian Orthodox churches in the Gakhsk district and two Christian churches in the Gabalinsk district, and over thirty traditional Protestant communities are functioning in

different parts of Azerbaijan (Molokans, Baptists, Pentacostalists, Seventh Day Adventists, Lutherans, New Apostolic and others). A number of these communities were registered in the years immediately following the re-establishment of Azerbaijan's independence. Some of the less traditional Protestant Christian communities founded by foreign religious missionaries, as well as a number of other religious groupings, were officially registered somewhat later. These include the "Saving Grace", the Church of the New Apostle, the German Lutheran Church, the Baku branch of the International Krishna association, the Ba'hai religious association and many others. It is worth noting that a number of Protestant Christian and Catholic Christian communities are functioning in Azerbaijan which came from America and Europe.

115. Of the five Jewish working synagogues in Azerbaijan three are in Baku, one in the village of "Krasnaya Svoboda"[Red freedom] in the Gubinsk region, and one in the centre of the Oguzsk district. The Mountain Jews form the greater part of the Jewish diaspora in Azerbaijan, and theirs is one of the most active synagogues in the country, with one of the largest congregations. After this community come, in descending order, the Jews of the Gubinsk district, the European Jews, the Georgian Jews and the Jews of the Oguzsk district.

116. A number of Islamic, Christian and Jewish establishments for spiritual eduction are working in Azerbaijan: the Islamic University of Baku, several madarasas, Sunday schools attached to Christian Orthodox churches, Pentacostalist Bible courses, the Bible school of the Saving Grace international Protestant Christian association.

117. Classes have also been started at General Education School No 46 in Baku for the study of Hebrew, of the Jewish religion, culture and history.

118. The religious confessions active in Azerbaijan maintain close links with religious centres in different countries and participate actively in events with a religious focus which these organise. Thus the Directorate of the Caucasus Muslims has established friendly relations with the Islamic Conference Organisation and with Islamic and other religious centres abroad

119. The Dean of the Russian Orthodox Church keeps in contact and collaborates with the Christian religious centres functioning the CIS countries. The Jewish synagogues have wide-ranging contacts with Jewish communities in various countries.

120. The religious confessions and non-traditional religious groupings in Azerbaijan engage in charitable work. They support a number of societies providing humanitarian assistance, and themselves visit boarding schools, homes for the disabled, hospitals and prisons, and extend material and moral assistance to them.

121. The national and religious occasions of all the religious confessions are widely celebrated in Azerbaijan and the President of the country publicly extends his greetings once a year to each of them. The Presidential Fund regularly provides financial assistance to Jewish synagogues and Orthodox churches.

122. Evidence of the atmosphere of mutual respect between the confessions is to be found in their active participation on an equal footing in the life of society, including the formulation of joint addresses on issues of Republic-wide significance.

(viii) The right to freedom of convictions and to their free expression

123. Article 47 of the Constitution guarantees the right of every person to freedom of thought and of convictions. Moreover no-one may be compelled to [publicly] proclaim their thoughts or beliefs convictions nor to repudiate them. The afore-mentioned Article of the Basic Law of the country does not permit agitation or propaganda aimed at arousing racial, religious or social strife or hostility.

124. Article 50 of the Constitution enshrines the right of every person to seek, acquire, transmit, compile and disseminate information by legal means. At the same time it guarantees freedom of information to the public and prohibits government censorship of the mass media, including censorship of the press.

125. The Law "On the mass media" of 21 July 1992 operates in the Azerbaijani Republic to implement the inalienable human right to freedom of speech.

126. On 6 August 1998 the President of the Azerbaijani Republic issued a Decree "On additional measures to ensure freedom of speech, thought and information."

127. More detailed information on the Azerbaijani Republic Government's policy on ensuring freedom of convictions and of speech are contained in the section of the report on Article 7 of the Convention.

(ix) The right to freedom of peaceful assembly and association

128. The right to freedom of assembly is guaranteed in Article 49 of the Constitution. Under this Article of the country's Basic Law every person is entitled, provided the relevant government authorities have been notified in advance, to perform the following actions, together with others, peacefully and unarmed: to assemble, to hold assemblies, meetings, demonstrations, to process through the streets and to set up pickets.

129. In accordance with Article 58 of the Constitution every person is entitled to set up any kind of association, including political parties, trade unions and other public associations, or to join an existing association.

130. Implementation of the right to freedom of association is governed by the Azerbaijani Republic's Laws "On political parties" of 3 July 1992, "On public associations" of 10 November 1992 and "On trade unions" of 24 February 1994.

131. To date the Ministry of Justice of the Azerbaijani Republic has registered 31 political parties and 1058 public associations.

E. Economic, social and cultural rights

132. Chapter 3 of the Constitution of the Azerbaijani Republic deals with human, economic, social and cultural rights. This chapter contains articles

which guarantee the right to property, the right to intellectual property, the right to work, the right to strike, the right to rest, the right to social security, the right to live in a healthy environment, the right to culture, the right to health care, the right to education, the right to housing, the right to creativity, the right to enterprise freely.

(i) The right to work, to a free choice of work, to just and favourable working conditions, to protection from unemployment, to equal pay for equal work, to fair and adequate reward

133. The Azerbaijani Republic's Law "On the employment of the population of the Azerbaijani Republic" of 27 June 1991 defines the State's employment policy. It includes promoting the right of every person to full, productive and freely selected employment.

134. The legislation of the Azerbaijanai Republic ensures equality of opportunity to all citizens residing in the country, irrespective of race, of tribal, national or ethnic origin and of other distinctions, to pursue their right to work and freely select their employment.

135. Under Article 8 of the afore-mentioned law citizens registered with the State employment service as seeking work have the right to free vocational guidance, vocational training and to obtain relevant information to help them choose a form of occupation, a place to work and working conditions.

136. Likewise no discrimination is permitted in the field of labour relations. Under Article 7 of the Azerbaijani Republic's Law "On individual labour agreements (contracts)" of 21 May 1996 and Article 17 of the Code of Labour Laws of the Azerbaijani Republic, as labour relations come into being, change or cease it is categorically prohibited to permit any discrimination between workers on the basis of race,of tribal, national or ethnic origin or of other distinctions and factors unrelated to a worker's business-related qualities, the results of his work or his professional skills. A worker subjected to restriction of his rights or other discrimination in the course of labour relations may have recourse to the courts.

137. Observation of the provisions of this Article is secured by both administrative and criminal penalties. Under Article 41 of the Azerbaijani Republic's Code on administrative offences officials who infringe the labour laws shall be fined between five and seven times the minimum wage.

138. It is an offence under Article 136 of the Criminal Code to violate labour legislation.

139. Article 21 of the Law "On employment in the Azerbaijani Republic" of 27 June 1991 stipulates that courses shall be provided to improve the skills of, and to retrain persons seeking work

140. A State Labour Inspection [facility] was established in accordance with a Decree of the President of the Azerbaijani Republic issued on 27 January 1997. One of its tasks is to verify the observance of labour legislation, so ruling out offences of a discriminatory nature in the Azerbaijani Republic.

141. Under the Constitution (Article 133 Part I) the Procuracy of the Azerbaijani Republic directs the application and implementation of laws in accordance with procedure provided by law. In cases specified by law it opens a criminal case and conducts an investigation; it puts the case for the prosecution in court; it initiates prosecutions; it appeals against decisions of the court.

142. Being a member of the International Labour Organisation the Azerbaijani Republic has acceded to a number of fundamental ILO instruments, including Convention No.111, "Convention concerning Discrimination in Respect of Employment and Occupation" (1958), and periodically submits a Government report to the International Labour Organisation on the application of the provisions of this Convention country-wide.

(ii) The right to set up and join trade unions

143. The right to set up and join trade unions is guaranteed in Article 58 of the Constitution and in the Law of the Azerbaijani Republic "On trade unions" of the 24 February 1994.

144. The trade unions are also entitled to verify the observance of labour legislation, including the barring of discrimination.

145. The activity of the trade unions is carried out in accordance with their Articles of Association, which define the principles and forms of trade union organisation, the trade union internal rules and regulations, the tasks of trade unions, the forms and methods of their work in practice.

(iii) The right to housing

146. The right to housing is guaranteed in Article 43 of the Constitution, which specifies that no-one may be unlawfully deprived of their housing. It also affirms the State's duty to promote residential construction and to undertake special measures to realise the right to housing.

147. The Azerbaijani Republic's Code on Housing reflects the following tasks: to regulate housing issues so as to ensure the citizens' constitutional right to housing, to utilize and conserve the housing stock, also to consolidate legality in respect of housing relations and of local government housing.

148. The Land Code of the Azerbaijani Republic considers issues related to land use, land distribution, land grants, division of land into districts and land organisation.

149. The principal obstacle to implementation of the right to housing is the continuing aggression by Armenia against Azerbaijan, which has destructive consequences for the country, the occupation of part of its territory, and the presence of over a million refugees and stateless persons.

(iv) The right to public health care, medical assistance, social security and social services

150. Under Article 41 of the Constitution every person has a right to health care and to medical assistance.

151. The right to health care and to medical assistance is also secured by the Azerbaijani Republic's Law "On public health care" of 26 June 1997. This right is secured by providing free qualified medical care in State health care institutions, by extending the network of institutions providing medical treatment and promoting the health of citizens, by developing and improving health and safety at work, and by introducing a wide range of prophylactic measures.

152. As a result of the Armenian Republic's aggression against the Azerbaijani Republic over a million people were forced to flee their homes, most of whom are now living in agglomerations under canvas. Mass expulsions from places of permanent settlement have paralysed the whole social infrastructure. A significant number of treatment and health promotion centres are out of action or are being used for other purposes. It is far more difficult to provide medical services to refugees and displaced persons than to the majority of the population. Nevertheless all populated areas, including agglomerations under canvas, are provided with the medical equipment and medicines necessary for rendering essential minimum assistance. With the help of especially created medical teams all refugees and displaced persons undergo a preventive medical examination.

153. The right to social security is stipulated in Article 38 of the Constitution and governed by the Law "On the provision of pensions to citizens" of 23 September 1992.

154. The above-mentioned Article of the country's Basic Law guarantees the right to social security on reaching the age specified by law, in the case of illness, disability, losing the bread-winner and disablement, in case of unemployment and in other cases stipulated by legislation. The Constitution imposes on the State a duty to create opportunities for charitable work, voluntary social insurance and other forms of social provision to develop.

155. Under the Law "On pension provision for citizens" of 23 September 1992, citizens of other states and stateless persons living permanently in the Republic who have worked for the appropriate length of time are also entitled to draw a pension in the Azerbaijani Republic.

156. Moreover, provision is made in the Azerbaijani Republic to pay allowances and compensation to persons in need of social protection, including victims of the armed aggression of Armenia against Azerbaijan.

157. Under Article 42 of the Constitution every citizen has a right to education. The State guarantees free, compulsory and general secondary education.

158. Article 3 of the Law "On education" of 7 October 1992 secures the right of citizens to education, irrespective of racial, tribal, national or ethnic

affiliation or other distinctions, and also ensures freedom of choice regarding form of education, educational institution and teaching language.

159. Article 7 of the Convention contains more detailed information concerning the Azerbaijani Republic's policy in respect of education.

(vi) The right to equal participation in cultural life

160. Under Article 40 of the Constitution every person is entitled to participate in cultural life, to utilize the cultural institutions and cultural valuables. It affirms a duty to treat the historical, cultural and spiritual heritage with respect, to take care of it, and to protect the historical and cultural monuments.

161. The right to equal participation in cultural life is secured by Azerbaijani Republic's Law "On culture" of 6 February 1998.

162. More detailed information on the Azerbijani Republic Government's policy in respect of culture is contained in the section of the report dealing with Article 7 of the Convention.

F. The right to access to any place and any sort of service intended for public use such as transport, hotels, restaurants, cafes, theatres and parks

163. Implementation of this right on an equal basis is guaranteed by legal and statutory instruments of the Azerbaijani Republic.

Article 6

164. Chapter 4 of the Constitution is devoted to guarantees of human rights and freedoms. Article 60 of the country's Basic Law guarantees protection of the rights and freedoms of every person in the courts. Anyone may appeal to the courts against the decisions and actions (or inaction) of State agencies, political parties, trade unions, other public associations, and of officials.

165. Under Article 61 of the Constitution every person is entitled to qualified legal assistance. In cases specified by law legal aid is provided free, at the cost of the State. From the moment a person is detained, taken into custody or charged with committing a crime by the competent State agencies, he is entitled to the assistance of a defence lawyer.

166. Article 68 of the Constitution guarantees to the victim of a crime, or of an abuse of power, the right to demand compensation for damages. Moreover the victim is entitled to participate in the administration of justice and to demand compensation for damage inflicted. Every person is entitled to compensation by the State for injury suffered as a result of the unlawful actions, or of the inaction, of a State agency or of its official.

167. The civil and the criminal legislation of the Azerbaijani Republic stipulate compensation for damages.

Article 7

A. Education and instruction

168. The citizens of the Azerbaijani Republic are entitled to free instruction in the State educational institutions. Supplementary fee-paying study groups may be additionally organised within these educational institutions.

169. We submit the following statistics for the academic year 1997/98:

Number of schools	4,519
Number of pupils (in thousands)	1,613
Number of institutions of secondary education	73
Number of pupils (in thousands)	32,6
Number of institutions of higher education	25
Number of students (in thousands)	79,8

170. There were 2,270 foreign students studying at institutions of higher education at the beginning of the academic year 1997/98.

171. The State is working in a variety of ways in order to enlist the cooperation of foreign governmental and non-governmental organisations in the process of educating pupils and students from Azerbaijan abroad. In particular, on the basis of intergovernmental treaties and of interdepartmental agreements, pupils and students from Azerbaijan are being educated on free of charge terms in Turkey, USA,Kuwait, Egypt, Jordan, Sudan, Iran, Poland, Germany, Israel and China.

172. A Council has been set up within the Ministry of Education to prepare and publish the programmes, teaching aids and textbooks necessary for teaching the minority languages.

173. There are two schools located in areas with compact ethnic Georgian populations, in which instruction is in three languages: Azerbaijani, Georgian and Russian.

174. In schools located in areas with compact minority populations we have introduced two hours of weekly instruction in the native language, history and national culture. Such instruction takes place in the Lezgin, Tatok, Talysh and other languages.

175. The State's attitude to the language of the people dwelling in the mountain village of Khynalyg is worth noting. Despite the fact the language spoken by these villagers does not fit into any language group, and is spoken by the population of only one village, books are published in the Khynalyg language, and a Khynalyg cultural centre operates in the Republic.

176. In 1997 the State funded publication of alphabet books and textbooks in the following languages: Russian, Talysh, Kurdish, Lezgin, Tsakhur and Tatok.

177. Before the aggression of the Armenian Republic against the Azerbaijani Republic, in the 1988-89 academic year there were 136 secondary schools in which

the teaching language was Armenian (16,120 pupils) and 13 international schools (7,045 pupils) in the former Nagorny Karabakh Autonomous Region (NKAO) of Azerbaijan. There were altogether 181 Armenian secondary schools (20,712 pupils) and 29 international schools (12,766 pupils) in Azerbaijan in the academic year 1988-1989. In the town of Khankendi (formerly Stepanakert) there was a State Pedagogical Institute with over 2,130 students, mainly Armenians, annually attending its Armenian, Azerbaijani and Russian departments In addition there were dozens of technical colleges and vocational training schools in NKAO working in the Armenian and Russian languages.

B. Culture

178. Article 17 of the Law "On Culture" of 6 February 1998 and other legal instruments concerning culture secure the State's right and duty to interfere in the cultural sphere in cases where violence or racial discrimination are displayed.

179. Support for the national languages and cultures of all minorities living on the territory of Azerbaijan is one of the important orientations of the Azerbaijani State's national policy.

180. The minority organisations and national and cultural centres operating in Azerbaijan are listed below:

The "Mada"International Association (Talysh)
The "Avesta" Association (Talysh)
The Talysh Cultural Centre
The Kurdish "Ronai" Cultural Centre
The Lezgin "Samur" Centre
The Society of the Dagestan-speaking mountain peoples of Azerbaijan
The "Dagestan" Cultural Centre
The Tsakhur Cultural Centre
The Udin "Orain" Cultural Centre
The Avar "Imam Shamil" Centre
The Lagych Charitable Association
The Tatok "Azeri" Cultural Centre
The Russian Community of Azerbaijan
The Cultural Centre of the Slavs of Azerbaijan
The "Sodruzhestvo" Community] Society
The Tatar Community of Azerbaijan
The Tatar "Tugan Tel" Cultural Centre
The Meskhetin Turks "Veten" Society
The Meskhetin Turks "Akhyska" Cultural Centre
The "Budug" Cultural Centre
The "Shakhdag" Cultural Centre
The Community of the European Jews
The Community of the Mountain Jews
The "Azerbaijan-Israel" Society
The "Iudaica" International Society
The German national and cultural Association
The "Khynalyg" Cultural Centre

181. Azerbaijan today has a wide network of State, departmental, trade union, private and commercial cultural institutions, consisting of some 14 thousand units. These are theatres,concert organisations and halls, museums,art galleries and exhibition halls, parks of culture, clubs and leisure centres, libraries, music and art schools as well as art colleges.

182. There are at present 25 State theatres, over 140 museums and their branches, 27 picture galleries, as well as 10,000 libraries with a total stock of 100 million books. Over 140,000 people are employed in the 4,000 clubs which unite over 10,000 amateur and technical creative groups and amateur groupings. 75,000 children and adolescents are studying and accessing culture and many genres and forms of art in the 270 music and art schools as well as art colleges.

183. In areas with compact minority populations there are club-based amateur societies, national and state theatres, amateur associations and interest-focused clubs. For example the Lezgin State theatre operates in the Kusar district, the Georgian national theatre and national puppet theatre in the Kakhsk district, Talysh folkloric groups in the Astarin and Masallin districts, the Turkish folkloric "Adygyun" group in the Saatlin district, the Tatar "Tugan tel" song and dance ensemble and the Russian "Sudarushka" ensemble in the town of Baku.

184. The cultural heritage of Azerbaijan was seriously damaged as a result of the armed aggression of Armenia against Azerbaijan. A clear confirmation of the vandalism of the occupying forces is the war they have declared on the Azerbaijani cultural heritage in the occupied territories, where unique cultural, historical and architectural features have been completely or partially destroyed. Moreover, a large number of works by painters and sculptors, costly decorations, decorative and applied art objects, valuable manuscripts - both from museum exhibits and from private collections - have been taken away to Armenia by the occupiers as trophies.

185. The Fate of the destroyed sites and plundered treasures was placed on record by the Minister for Foreign Affairs of the Azerbaijani Republic in November 1993 at the 27th session of the General Conference of the United Nations Educational, Scientific and Cultural organization in Paris. In November 1994 a UNESCO mission visited Azerbaijan to identify the state of preservation of the educational, cultural and architectural facilities on the territory of Azerbaijan occupied by armed forces of the Republic of Armenia, and confirmed the existence of serious damage to educational institutions and the Azerbaijani cultural heritage as a result of the war.

186. The Museum of Stone Monuments in Zangela district and the Museum of History in the town of Shusha continue to be destroyed in the occupation. The Kelbajar Museum of Local History, which contained rare historical exhibits, articles made of gold, silver and precious stones, hand-made carpets and other valuable items, has been completely looted. The museum in the house of the founder of the first opera in the Muslim East (1908), the musician and public figure Uzeir Gadzhibekov, is in danger of disappearing. Sculptural representations of Uzeir Gadzhibekov, the famous poet and vizier (Prime Minister) of the Azerbaijani Karabakh khanate, Vagif, one of the rulers of the Karabakh khanate, the poetess Khurshid-Banu Natavan, and the outstanding tenor

who studied at La Scala in Milan, Biul-Biul, have been destroyed or damaged. Many thousands of rare printed works and priceless manuscripts have been destroyed in pillaged and burned libraries. The costly furniture of the palaces of culture and four State theatres also failed to escape the vandals of the twentieth century.

C. Information

187. In Azerbaijan radio and television broadcasts are made, and books, magazines and newspapers are published, in the languages of the various minority populations of the Republic. Thus the Republic radio [station] regularly organises broadcasts in the Kurdish, Lezgin, Talysh, Georgian, Russian and Armenian languages, which are financed from the State budget. The local radio station in the Belokan district organises broadcasts in the Avar language, while in the Khachma district they broadcast in the Lezgin and Tatok languages. In the Gusar and Khachma districts local television broadcasts in the Lezgin language. In the city of Baku over 20 newspapers are published in Russian, and there are daily radio and television broadcasts in the language. The Russian programmes of ORT, RTR and NTV are relayed in full. In Azerbaijan there are also several private television and radio companies, and the State television channel shows an English language programme. Newspapers are also published in the Kurdish, Lezgin, Talysh and Georgian languages, and these receive financial assistance from the State. In particular, the newspapers "Samur" and "Dengi Kurd" are published in Azerbaijan in the Lezgin and in Kurdish languages respectively, while in the Gusar district the newspaper "Gusar" is published in Lezgin. The Jewish society "Sokhnut" publishes the newspaper "Aziz".

188. In 1998 the "Azerbaijan" publishing house produced "Human Rights: A Compilation of International Instruments"in the Azerbaijani language, on the initiative of the Azerbaijani National Commission on UNESCO.

189. This year the Government of Azerbaijan and the Office of the United Nations High Commissioner for Human Rights signed a programme of technical assistance to Azerbaijan intended to strengthen the momentum and the infrastructure in support and defence of human rights. The programme envisions the dissemination of United Nations information and documentation on human rights.

190. In accordance with the Instruction signed on 16 April 1998 by the President of the Azerbaijani Republic "On the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights in the Azerbaijani Republic", plans have been drawn up as follows: to hold seminars on human rights for representatives of non-governmental organisations and the mass media, to organise television and radio broadcasts on the protection of human rights, to publish textbooks on human rights for institutions of higher and secondary education, to disseminate information on the protection of human rights in the Azerbaijani Republic on the Internet etc.

UNITED
NATIONS

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International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/351
4 February 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Third reports of States parties due in 1999

Note by the Secretary-General

1. Third reports under article 9, paragraph 1 (b), of the Convention due in 1999 are due from four States parties. The table below contains the date on which their third periodic reports are due, the symbol numbers of the documents containing their initial and second periodic reports and the summary records of the meetings of the Committee at which such reports were considered.

States parties	Date on which third periodic report is due	Documents containing (1) initial and (2) second periodic reports	Summary records
Albania	10 June 1999	(1) Not yet received (2) Not yet received	- -
Switzerland	29 December 1999	CERD/C/270/Add.1	CERD/C/SR.1248-1249
Turkmenistan	29 October 1999	(1) Not yet received (2) Not yet received	- -
United States of America	20 November 1999	(1) Not yet received (2) Not yet received	- -

2. The third reports of the States parties listed above will be issued in addenda to this document.

GE.99-40394 (E)

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Note by the Secretary-General

1. Fourth periodic reports under article 9, paragraph 1 (b), of the Convention are due in 1999 from two States parties. The table below contains the dates on which their fourth periodic reports are due, the symbol numbers of the documents containing their initial, second and third periodic reports and the summary records of the meetings of the Committee at which such reports were considered.

2. The fourth periodic reports of States parties listed below will be issued in addenda to this document.

GE.99-40399 (E)

States parties	Date on which fourth periodic report is due	Documents containing (1) initial, (2) second and (3) third periodic reports	Summar
Latvia	14 May 1999	(1) CERD/C/309/Add.1	Pendin consid
		(2) CERD/C/309/Add.1	Pendin consid
		(3) CERD/C/309/Add.1	Pendin consid
Slovenia	6 July 1999	(1) Not yet received	
		(2) Not yet received	
		(3) Not yet received	

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